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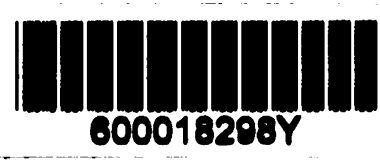
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NARRATIVES

FROM

CRIMINAL TRIALS IN SCOTLAND.

BY

JOHN HILL BURTON,

AUTHOR OF "THE LIFE OF DAVID HUME," "THE LIVES OF SIMON LORD LOVAT, AND DUNCAN FORBES OF CULLODEN," &c.

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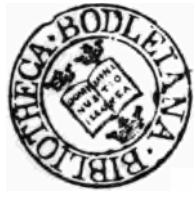
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CRIMINAL TRIALS IN SCOTLAND.

TRIALS FOR POISONING.

M. DUMAS makes his Count of Monte Christo comment sarcastically on the vulgar criminal poisoner, who, with the marks of excitement visible on his countenance, goes to the nearest chemist to buy arsenic for destroying imaginary rats, mixes in the victim's food enough of the poison to slay a host, and is at once betrayed by the burning spasms, and the perceptible metallic earth profusely distributed through the unfinished food and the contents of the stomach.

One of the most observable things in the history of crime is the slowness with which it adopts, when it adopts at all, the aids of advancing science. While the efforts that do good to mankind are ever triumphing in new lights, wickedness lurks in old barbaric darkness. It is surely

one of the most cheering tokens of a superior wisdom in the guidance of the universe, that science can control its powers for good ends, and that the intellectual capacities of men are the servants and not the masters of the moral. All our great discoveries, from printing down to the electric telegraph, have aided in the detection rather than the accomplishment of crime, and every new surrender of physical difficulties to scientific skill, gives the supporters of order and morality new checks on licentiousness and vice.

Yet well-meaning people, who have seen with admiring joy the order and beauty of creation in inanimate objects, have been loth to follow it into these deeper and more sublime recesses. Thus pious heads have vibrated at every invention or discovery increasing the command of man over the physical world, as if it also increased the command of evil over good. At one time it appears that crime is to flee before justice on the wings of steam —at another it is proclaimed that forgery and fraudulent imitation of every kind can be pursued on a bountiful scale without the possibility of detection—and many a time the revelations of the chemist fraudulent imitation of every kind can be pursued on a bountiful scale without the possibility of detection—and many a time the revelations of the chemist

This world would be, indeed, a darker abiding place than it is, if every scientific discovery were only to strengthen the destructive powers of a race of Brinvilliers and Borgias. Science, when it rises in the midst of a state of society where the other elements of civilisation keep pace with its progress, rarely lends itself to crime; and in the midst of its brightest achievements we generally find the darker crimes perpetrated with the narrow knowledge, and the clumsy materials that have been inherited from distant ages of ignorance and ruffianism.*

It is gratifying to curiosity, as it is important in experimental ethics, to examine individual instances in sufficiently extensive groups, that we may see whether any such general view is founded on truth. With this object, the more prominent cases of poisoning which have occurred in Scotland are now brought in their main features rapidly before the reader, and it is believed that he will not find them give countenance to the view that the skill of the poisoner increases in the same ratio as that of the scientific benefactor of his species.

* It is curious, that in the only great crime lately known to be committed by a man of noted scientific attainments, the murder of Dr. Parkman by Professor Webster, the chemical adept, instead of drawing on the resources of his science, perpetrated his crime with the rude brutality of a savage.

In the earlier trials, witchcraft and poisoning are mixed together. The sages of the law took their rules rather from classical poetry than from any knowledge which their meagre scientific acquirements placed at their command. The agencies which, without external violence, extinguished life, could not be separated from those which were believed by the ignorant to accomplish in the same inscrutable manner the traditionary exploits which we now treat as supernatural. Thus the poisoner was the direct representative of the Roman veneficus, whose philtres are equally efficacious in extinguishing life, in raising the spectres of the departed, in transforming men into brutes, and in absorbing the agricultural riches of a neighbour's field.

> "Has herbas, atq: hæc Ponto mihi lecta venena
> Ipse dedit Mœris: nascuntur plurima Ponto.
> His ego sæpe lupum fieri et se condere sylvis
> Mœrin, sæpe animas imis excire sepulchris,
> Atque satas aliò vidi traducere messes."

One of the earliest cases of this character—that of the Lady Glammis—is extremely tantalising, from its imperfect details, and the glimpses they afford into a mysterious and inexplicable history. She was subjected to the revolting punishment of being publicly burned at the stake for attempts against the life of King James V. At an earlier period we find traces of an attempt to bring her to

trial for the "intoxication of her husband"—a charge which, according to the modern meaning of words, and without further explanation, would only seem criminal in the eyes of a jury of total abstainers. But a darker colouring is given to the affair by other documents, which refer to her having put him to death through the same means (per intoxicationem);* and the accusation, doubtless, referred to the use of philtres, poisonous drugs, or incantations. She was never brought to trial for this offence; and the form in which the few faint allusions to it are recorded is very singular. It is in the levying of penalties on persons who had failed to come forward as jurymen on her trial. They were men of standing and substance, and their evasion of the trial, when coupled with what afterwards occurred, would seem to point at the monarch's determination to sacrifice this lady having been baffled by a desire among her fellow-subjects to protect her from the royal vengeance. These proceedings occurred in the year 1532. It was in 1537 that she was charged with the more formidable offence of an attempt on the life of the king. The chronicles of the day allude to the means by which she was to

* Pitcairn's Trials, i., 158, 189. The same expression is used in some subsequent trials for poisoning, so briefly reported as to afford no materials for special notice.

perpetrate the murder — sometimes as witchcraft —sometimes as poison. The criminal charge against her, which is recorded in the briefest possible form, is simply that she had "conspired and imagined the destruction of the most noble person of our most serene lord the king by poison." But, coupled with this, there is another charge which is supposed to reveal the secret of her fate; it is for giving aid and succour to Archibald Earl of Angus and his brother, George Douglas, in their rebellion. The Lady Glammis was a sister of Angus, and appears to have inherited the high spirit of her race. The house of Douglas, after its most desperate wrestle with the power of the crown, had fallen, to all appearance irretrievably. There was little generosity or even compassion in those days for humbled enemies; and the slightest footing left to the subdued foe might only give him the means of future vengeance. When it was a merit in the court menials to refuse a cup of water to the fallen chief, he was, however, tended with bountiful affection by his sister, the Lady Glammis. This is believed to be the secret of her tragic fate, and of the narrow information on the specific acts of which she was charged.* Sir Thomas Clifford, the English am-

* That the criminal prosecution of Lady Glammis was only part of a general project for crushing the house of Douglas, has

bassador, in a letter in which he strangely misspells the title of the great earl, says: "The Lady Glammis, sister to th' Earle of Anguysh, was brint in Edinburgh for treason laid to her charge against the king's person—as I can perceive without any substantial ground or proof of matter."*

Some historians speak in a tone almost chivalrous of the fate of this unfortunate lady. The historian of the family of Drummond says: "She was accused by suspected witnesses, if not false, that she and her son and some others had gone about to take away King James the Fifth his life by witchcraft. Whereupon she was burnt upon the Castle-hill of Edinburgh with great commiseration of the people, in regard of her noble blood and singular beauty, she being in the prime of her age, and

been inferred from the contemporary condemnation and execution of the Master of Forbes, who was married to a sister of Douglas and the Lady Glammis, on charges equally mysterious and unsatisfactory, and similarly doubted by contemporary historians. He was charged with two separate offences—a design to shoot the king with a culverin as he passed through Aberdeen to hold a justice air, and an attempt to destroy or betray part of the Scottish army assembled at Jedburgh—a charge which the record of the indictment leaves in a very ambiguous state. The suspicious features in the affair were, that save from the fact of the master being executed for their perpetration, the historians of the period had no information of treasons either in the north or south; and that the chief informer was banished from the country.

* Pitcairn, i., 198.

suffering with a masculine courage—all men conceiving that the king's hatred to her brothers had brought her to that end."* Similar and more full are the notices of old Hume of Godscroft, whose history of the house of Douglas was penned with the devotion of a family bard or Celtic senachie:

"The king's anger still continued against them in such sort, that nine years after, in 1537, he was contented that Jane Douglas, Lady Glammis, who was Angus's sister, should be accused by false witnesses, condemned, and execute. The point of her accusation was, that she and her husband, Archibald Campbell then, and her son, and an old priest, had gone about to make away the king by witchcraft. Their servants were tried and racked, but confessed nothing. Her accuser, John Lyon, a servant of her first husband, when he saw how they were liked to be used, and that the house of Glammis would be ruined, repenting of what he had done, confessed to the king that he had wronged them—but it did no good."

The author of a large clumsy folio volume, called the History of Scotland, by David Scott, of the Inner Temple—a work generally voted by the few who have turned over its pages as rather unreadable—tells us that Lady Glammis "was the most cele-

* Pitcairn, I*, p. 194.

brated beauty in the nation. She was of a middle stature, not too fat; her face of an oval form with full eyes; her complexion extremely fair and beautiful, with a majestic mien;" and as Mr. Scott is bent on making her a heroine of the Scuderi school, he enumerates some further qualities of the kind commonly called perfections, and gives her speech as delivered at the bar of the court by which she was condemned, with many other particular events for which he had no authority.

It must be mentioned as in some measure weighing against the theory of the Lady Glammis being fictitously accused, that a certain Alexander Makke, or Mack, was tried for having prepared and sold the poison. His punishment was a curious one: to have his ears cut off, and to be banished to the county of Aberdeen; there to remain for the remainder of his life, which was to be forfeited if he entered any other part of Scotland.*

One might be inclined to ask what crime the inhabitants of the northern county had committed that they should be judicially burdened with a concocter of poisons. The punishment, however, might

* Et erit bannitus extra omnes partes Scotiæ præter vicecomitatum de Aberdene; et ibidem manebit omnibus diebus vitæ suæ; et quod exibit dictum vicecomitatum sub pena mortis.—Pitcairn, i., 203.

be considered lenient; a statute of the reign of James II. emphatically provided that any person importing poison, "through the whilk any Christian man or woman may take bodily harm," "shall tyne and forfeit to the king, life, lands, and goods." This law induces Sir George Mackenzie seriously to consider whether poison destined for a Jew or Pagan, or for an excommunicated person, comes within the act.*

After some uninteresting and briefly recorded cases, the next remarkable trial for poisoning is that of another titled woman—the Lady Fowlis—who was indicted on the 22nd July, 1590, for witchcraft, incantation, sorcery, and poisoning. The accusations against her, if true, are a history of terrible criminality and superstition. She was the second wife of the Lord Fowlis, and one of the victims against whom she directed her machinations was his eldest

* It is an indication of the mysterious importance attached to everything connected with the operation of poison, while so slight a scientific control could be exercised over its influence, that in 1601, an important trial before the High Court of Justiciary, in which the king took a personal interest, related to no more formidable achievement than the slaughter of a couple of fowls. Thomas Bellie, burgess of Brechin, and his son, were accused of "having and keeping of poison, mixing the same with daich or dough, and casting down thereof in Janet Clerk's yard, in Brechin, for the destruction of fowls; by the which poison they destroyed to the said Janet two hens." The accused were banished from the kingdom for life.

son by his former marriage, and the heir to the family estate. The other object of her murderous attempts was Marjery Campbell, the wife of her brother Ross of Balnagowan. Her object in this instance was, it appears, to bring about a marriage between her brother and her step-daughter, the sister of the other victim; but the ultimate effects which she had in view are far from being distinct.

The lady's chief familiar and agent in this diabolical business was a certain Marjery McAllester, alias Loskie Loncart, denounced in the indictment as "a notorious witch." A portion of their operations, which they seem to have carried on with a perseverance worthy of a better and more productive cause, was the making of "pictures" or images of their victims in clay and butter. Loskie Loncart was the artist on the occasion, and it would be interesting could we know how far the accomplishments which gave her a reputation for supernatural powers extended to the fine arts. The lady and her colleague occupied themselves in discharging elf arrows, or the little flint arrow-heads, which have been dug up in numbers throughout Scotland, at these figures.* One instance is mentioned where the Lady Fowlis stood by when Loskie Loncart

* A notice of these elf arrows will be found in the witchcraft trials in this collection, vol. i., p. 282.

discharged the elf arrow eight times at the picture, flagrantly missing it at every shot. They had provided, it appears, "three-quarters of fine linen cloth for the pictures, if they had been hit by the elf arrow-head, and the linen to be bound about the said pictures, and the pictures so have been eirded (or earthed) under the brigend of the stank of Fowlis;" a species of shrouding and burial which was to follow the symbolical extermination.*

The charges of preparing and administering poison, mixed up with these attempts to wield the powers of darkness, are numerous and rather confused. The lady is said to have made a stoup full of poisoned new ale in the barn of Drymmen, assisted by Loskie Loncart, who appears to have been prepared to undertake anything that had malice and wickedness for its end, whether by natural or supernatural means—and another familiar named Christian Ross. The poison, says the indictment, "was kept in the kiln of the said town of

* This method of symbolical destruction of life or corporal functions is very ancient. Ovid says:

——"Simulacraque cerea figit
Et miserum tenues in jecur urget acus."

And again:

"Num mea Thessalico languent devota veneno
Corpora? Num misero carmen et herba nocent?
Sagave Phœnicea defixit nomina cera
Et medium tenues in jecur egit acus."

Drymmen for the space of three nights, and the said Christian Ross, Loskie Loncart, and thou, convened the third day again thereafter in the said kiln, where thou commanded Loskie Loncart to make a pig* full of ranker poison that would destroy shortly the foresaid persons—at whose command the said Loskie Loncart made the said poison and put it in a pig and sent it to thee."

Then comes another charge, attended by curious incidents: "Also thou art accused for assisting and giving council in company with the said Christian Ross and Loskie Loncart, in sending of a pig of poison with the nurse to Angus Leith's house, where the young Laird of Fowlis was for the time, of deliberate mind to have poisoned him therewith—whilk thou had in keeping, and the said nurse bringing the said pig from thee, it fell in the way under silence of night, and broke the pig, and she tasting the same, immediately after departed (that is, died) of the said poison—and the same was devised for poisoning of the young Laird of Fowlis, which the said Christian confessed judicially, being accused as said is, and was convicted of the same. And for the more witnessing the place where the said pig broke, the grass that grew upon the same was so high by the nature of other grass, that neither cow, ox, nor

* Pig, an earthenware vessel.

sheep ever previt thereof yet—whilk is manifest and notorious to the whole country of Ross, whilk thou can nought deny."

The staple excuse of poisoning rats seems to have been well known even at that early day. "Thou art accused," says another branch of the indictment, "of giving of eight shillings money to William McGillivirie-dam to pass to Elgin, for buying rattoun poison—who wared [disbursed] thereof but sixteen pennies; and brayed the said poison, and put it in ane piece leather, and delivered it to thee in June, seventy-seven years within the stank of Fowlis—Catharine Ross, daughter to Sir David Ross, of Balnagowan, being in council thereof—and to the more verification thou delivered to him with the said eight shillings, four ells linen cloth for his labours; whilk he confessed, being accused judicially, and was convict by an assize, and burnt for the same, as the haill country knows."

It is impossible to convey to the reader a notion of the preposterous quaintness of such charges, without quoting the terms of the documents in which they are set forth; and their peculiar character is necessarily in a great measure sacrificed by the modernising of the spelling. Besides the several familiars who have been already mentioned, the lady dealt with the Egyptians or Gipsies, ever possessed

of a dark reputation as accomplished poisoners. Other accomplices were, like the man with the long quaint name who bought the rat-poison, convicted and burned. The lady herself was, however, acquitted; and, from the long series of years covered by the numerous charges against her, it would seem that there must have been difficulty in bringing to trial one who had so large a circle of influential relations.

The mysterious charge against the master of Orkney, for attempts on the life of his brother, the earl, is another amalgamation of witchcraft and poisoning. It is referred to in the chapter on witchcraft trials as one of the unhappy examples of confession under torture. As in Lady Fowlis's case, the subordinate instruments were executed, after being duly tortured; the master was acquitted, and the denials, which were of no avail to *them*, appear to have operated strongly in his vindication. The indictment is extremely vague—apparently it had been made so intentionally, to give room for acquittal.

In a case of mixed poisoning and witchcraft which occurred in 1607, no moral distinction appears to have been made between the administration of potions destined to kill and potions destined to cure. The adoption of means held to involve unlawful

and supernatural agency, was held to be the moral offence, not affected by the ultimate temporal result. Thus Bartie Paterson, tasker in Newbottle, is accused "of the crime of sorcery and witchcraft, in abusing of the people with charms and divers sorts of inchantments, and ministering, under the form of medicine, of poisonable drinks; and of art and part of the murder of John Miller, in Ford Mill, about Martinmas last, and of umwhile Elizabeth Robertson, by the said poisonable drinks. For curing of James Brown, in Turnydykes, of an unknown disease, by ministering to him of drinks, rubbing him with salves made of divers green herbs, and causing him to pass home to his own house, and at his own bedside to sit down on his knees three several nights, and every night, thrice nine times, to ask his health of all living wights above and under the earth, in the name of Jesus. And thereafter ordained the said James to take nine pickles of wheat, nine pickles of salt, and nine pieces of rowen tree, and to wear them continually upon him for his health, committing thereby manifest sorcery and witchcraft. Item, for abusing the people with a certain water, brought by him forth of the loch called the Dhu Loch, beside Drumlanrig, and curing of his own bairn with the said loch water, by washing of the said bairn at every neuk (corner) thereof thrice; and casting

in of the bairn's sark in the said loch, and leaving of the sark behind him, affirming that if any should come forth of the loch at that time, the patient would convalesce, and if nathing appeared to him, the patient would die;"* and so on in the same strain.

If Bartie Paterson performed these operations at the present day, the humblest peasantry of Drumlanrig would think him as innocent as he was preposterous. But what makes such a charge typical of ignorance frightful and chaotic among the people, whose most learned men entertained such charges, is the entire overlooking of the ultimate object and its effects, good or bad, on human beings. The murder of John Miller and Elizabeth Robertson with poisonable drinks, seems to have been put in the same category of crime as the curing James Brown of an unknown disease, and the attempt by the wizard to restore his own child's health with the waters of the Dhu Loch. Paterson was sentenced to be "worried," or strangled, at a stake, and burned.

The next case is an instance of unquestionable crime perpetrated by several members of a very worshipful family, for the basest motives. In 1613,

* Pitcairn, ii., 535.

Robert Erskine and his three sisters, Helen, Isobel, and Agnes, were brought to trial for the murder of their nephew, the young Laird of Dun. This miserable family were the direct descendants and representatives of that John Erskine of Dun, one of the leaders of the Reformation, whose zeal, piety, and private worth, acquired for him a veneration not far behind that paid to Knox and Wishart. He died at a good old age, twenty-two years before these sad events, but his descendants seem not to have been men of long life, for it would appear that the two generations of them intervened between the patriarch and the murderers. The attempt was made against two boys, the Laird of Dun and his brother, for the end of the principal perpetrator would not have been served by the death of one. His sisters, the aunts of the two children, seem to have urged him on with a vehemence not less horrible, that they had not apparently the same mercenary motive. The ladies were charged with "having proponed to one David Blewhouse that if he would undertake to get a witch, that by some sinistrous means would undertake to take away the lives of the said two boys that were betwixt the said Robert and the living of Dun, that the said David should receive for his

reward a possession for his lifetime on the lands of Dun, and five hundred merks of silver."*

Blewhouse, however, was not induced to serve their purpose. It is then stated that the ladies crossed the Cairn of Mont—a pass of the Grampians near which the upper portion of Angus touches the Highlands—and having entered the wilder country to the north, forgathered at the Muir-ale-house with one suited for their purpose—a certain Janet Irving, "a witch and abuser of the people." From her they received the poisonous herbs; and it is stated that, on seeing them, Robert Erskine having doubts of their sufficiency for their murderous purpose, crossed the Mont himself, and held a consultation with the sorceress. The herbs were steeped for a long time in ale. Robert, it seems, still had doubts of their efficacy, and questioned whether the mixture had not better be thrown away. But the sisters thought it would be a pity not to give it a trial, and so setting off to Montrose, they managed to get the boys to partake of the liquid. The clumsiness of such an act, in which two boys were to partake of a nauseous drink, which was immediately to produce sickness and destroy life, is one of the most singular features of the affair—but it was not always considered fatal to the criminal in

* Pitcairn, iii., 262.

that age for his crime to be suspected or known—punishment was by no means a necessary sequence. The children are described as being speedily seized with spasms and violent vomiting. The eldest turned black and dwined away, "in great dolour and pain," and before his death, said in his agony, "Wo is me that I ever had right of succession to any lands or living; for if I had been born some poor cotter's son, I had nought been so demeaned —nor such wicked practices had been plotted against me for my lands." One is reminded of Prince Arthur speaking to Hubert, "Is it my fault that I was Jeffrey's son."

Since the accession of James to the throne of England, the law had become somewhat stronger than of old, and these conspirators were convicted and executed, with the exception of one of the ladies, who, being "more penitent and less guilty" than the other two, was banished.

Before passing from these grotesque scenes, in which the supernatural was so rife an agent, to the vulgar poisonings of the present day, one or two peculiar cases require attention.

The nearest instance in Scotland to the deliberate and leisurely poisonings of the French romances, will probably be found in the trial of George Clerk and John Ramsay for the murder of John Ander-

son in 1676. A disease then raged in Edinburgh, bearing a close resemblance to the Asiatic cholera in its general features. Like the pestilence of later times, it lay under the suspicion of being contagious, and those who were smitten were presently deserted by all whose affection was not stronger than their fear. It was the isolation likely to surround an old bachelor, when reported to be smitten with the prevalent epidemic, that tempted the accused to commit their offence. The perpetrators were Anderson's servants, and the only persons who lived in his house. He appears to have been a person of eccentric and rather dissipated habits, for it was said that the murderers imagined their evil deed from a practice which they had fallen into of drugging their master's liquor, that, like the Spartan slaves, he might furnish sport to them.

The accused obtained the aid of an apothecary's assistant, who furnished them with drugs capable of producing the usual symptoms of the prevailing epidemic. Anderson consulted a medical man, to whom the case presented nothing but what was too common. He prescribed for his patient, and, as if it had been an instance of the disease brought on by no artificial means, the medicines had the usual mitigating effect. The contest between the two antagonist drugs going against the conspirators,

they settled the question in their own favour for the time, by the application of opiates. They then got possession of the house keys, which Anderson seems to have at other times safely guarded; and, rifling his chests, robbed him of a large gold chain and many other precious articles.

They appear to have compounded with their consciences, not directly to poison the old man, but to inflict him with disease, and take precautions against his recovery. He seemed likely, however, to escape; his friends visited him, and his spirits rose. In a short time he would discover the knavery that had been practised on him, and it was necessary that the conspirators should adopt energetic measures. They had recourse to their friend, the apothecary's assistant; and this time it was a direct application for poison. He too, however, had a conscience, and he would not furnish them with immediate poison, but would give them drugs, the judicious use of which would deprive the victim of life within a month; he recommended them to avoid poison, as the body would swell and betray the foul play. The drug which he furnished, called powder of jalap, appears to have been more rapidly efficacious than it had been intended to be. Anderson was getting so well, that on Saturday night his medical attendant said he would consider it unnecessary to

visit him on Sunday. The old man rose on Sunday "more like himself," to use a national expression, than he had been for some time. Probably these alarming symptoms of restoration were a spur to the conspirators to hasten their work, for they dosed his medicine so effectually, that he died on Monday morning at ten o'clock. While he lay in his agony they rifled his remaining repositories, which seem to have contained a considerable sum of money; and it was not till he was too near the jaws of death to make any revelation that they called in the neighbours. The conspirators were convicted and hanged, and the apothecary's assistant, who served their guilty purpose, was banished for life.*

Yet this treacherous crime is far outstripped in deep guilt by the tissue of atrocities with which Nichol Mushet was charged in 1720. The reader will probably be familiar with the name, from the mysterious allusions to it in "The Heart of Midlothian," and particularly from the wild scenes which take place round the cairn, raised to mark the concluding tragedy of a series of horrors so revolting in their nature as to forbid their being fully narrated. Mushet sold to his fellow-criminal, Campbell, the honour of his wife, agreeing to use all his endeavours to make the bargain good. Finding their treacherous attempts baffled, they resolved,

rather in revenge, it would seem, than in fulfilment of their purpose, to blast her character. Accordingly, they drugged the poor victim with opium, and caused a scene to be enacted and witnessed that cannot be described. Mushet raised an action of divorce against his wife; but his solicitor, hinting that the grounds on which it rested were suspicious, and might lead to an awkward exposure, he endeavoured to strengthen his case by the testimony of false witnesses. The conspirators failing in this project, as well as in a succession of schemes for secretly poisoning the woman or knocking her on the head, devised a plan of strangely complicated villany, for producing murder through means substantially natural and incidental. They persuaded a physician that it was necessary to submit their victim to a mercurial salivation, and they recommended him to administer the empyric powerfully, as she was a person of singularly strong constitution. To make the prescriptions efficacious as a poison, we are told in the indictment, that "when the said Margaret was under this course, which lasted about a month, he (Campbell), or at least the said Nichol and their accomplices, did from time to time drink brandy or other strong liquors with the said Margaret, plainly in order to destroy her."* Of such a circuitous mode of poisoning it would be difficult to convince a

* Maclaunn's Arguments and Decisions, p. 740.

jury, especially when, as in this instance, the murder is not accomplished, and the victim lives. The husband, however, settled all difficulties by cutting her throat, so as nearly to sever the head from the body, at the lonely spot still known as Mushet's Cairn.

In the year 1765, the public feeling throughout Scotland was disturbed by a tragedy which, in its general features, closely resembled the French case of Madame Lafarge. The crime, as we shall see, was of the same character. The early rumours of the Scottish case called forth pamphlets and other symptoms of excitement, which bore fully as great a proportion to the torrent of public declamation which bore Marie Lafarge to the bar, as the excitability of the Scottish people bears to that of the French. The cases were similar, too, in the principles of deliberate judicial proof being lost in the general indignation and vituperation.

In a secluded mountain region among the braes of Angus, called Glen Isla, there lived a middle-aged gentleman, Thomas Ogelvie, the proprietor of a small estate, who suffered much from bad health. He formed a matrimonial alliance which created considerable astonishment among the friends of both the parties. His wife, Catherine Nairn, was young—not quite nineteen years of age. She held, as the

daughter of a house of considerable local distinction,* a far higher social rank than Ogelvie, whose position, though he was a landed proprietor, was but that of the yeoman. She was gay to volatility, as her subsequent conduct, apart from the question of her criminality, abundantly showed. Such was she who chose, without compulsion or the pressure

* It may be worth mentioning, that the present is not the only charge of poisoning which appears to have been connected with this family. In a series of documents in the Advocates' Library, there is a "Copy of the process and of the witnesses' depositions, taken before the sheriff of Edinburgh, in a precognition, Captain Nairn against Mrs. Spence." The name of the estate, to which it is not necessary to draw attention, shows that the captain was a relation of Catherine Nairn or Ogelvie. The charge is, that Mrs. Spence connived with his wife to poison him, and it is made in very odd terms: "She hath engaged or promised, by poison or other ways, to take away my life, and therefore I crave warrant for apprehending and imprisoning her, in order to be tried for the above riot." The examination is a strange tissue of incoherencies. A witness had overheard the wife and the accomplice in conversation, saying that the captain was not worthy to live—that there were some oils prepared for him, and that, if the lady would give "a ninepence more, she would let her see the virtue of these oils, which would cut off Captain Nairn." The witness says that Mrs. Spence was one day much fatigued, "having been in the fields seeking for roots, whereof she took one out of her pocket, which looked like a crumindish or hemloc root." She sat on Heriot's bridge concocting her poisons, not venturing to do so in a house. Among the other heterogeneous contents of these papers, we find the intended victim coming among the plotters in masquerade, as "a Flemish captain," and there hearing his wife called "a dear angel of light," and himself "a murdering ruffian rascal, who was guilty of all kinds of sin, and was not worthy to live."

of circumstances, to devote herself to the companionship and care of an invalid well advanced in life, and living in the solitudes of Glen Isla.

The bride had scarcely taken up her abode in her new home, when a brother of her husband, many years younger, a military officer, returned from India, and joined their circle at Eastmiln. Whatever influence this event produced must have worked very rapidly, for the marriage took place in the month of January, and the old man was dead on the 6th of June in the same year.

The young officer and his sister-in-law were charged with, and whether justly or not, were convicted of a criminal intrigue with each other. The evidence of neutral and fair persons showed a degree of indecent familiarity between them, such as people in the same rank, at the present day, would deem incomprehensible, since it is the very last course of conduct which a couple entertaining criminal intentions would so flagrantly show. The position of the principal witness, however, who bore actual testimony to the criminality, seems to show that, among certain circles of the Scottish country gentry of that day, there was as much vice as we know that there was coarseness and indecency.* This

* There are people old enough to remember a strange coarseness of conversation and manners pervading the Scottish gentry. The indulgence in this humour in mixed society came in later times to be a sort of privilege of rank and birth—the courtesies

witness, named Anne Clark, was a relative of the Eastmiln family. She was received into the household after the marriage as a sort of humble dependent. But the accused offered to prove that she had previously resided in a brothel in Edinburgh, and had been the mistress of Eastmiln's younger brother.

Some letters by Catherine Nairn to her alleged paramour were produced in evidence of the intrigue. They were not very conclusive, but a specimen of them may be considered curious:

"DEAR CAPTAIN,

"I was sorrie I missed you this day. I sat at the water-side a long time this fornoon. I thought you would have comed up here; if you had as much mind of me as I have of you, you would have comed up, tho' you had but stayed out by, as there is no use of that—there is more rooms in the house than one. God knows the heart that I have this day, and instead of being better it's worse, and not in my power to help it. You are not minding the thing that I said to you or you went out here, and what I wrote for. Meat I have not tasted since yesterday dinner, nor won't or you come here; though I should never eat any, it lies at

and elegances of life required only to be resorted to by those whose position was questionable. Something of the same kind has been noticed in anti-revolutionary France.

your door. Your brother would give anything you would come—for God's sake, come."

In another letter she says, "As for that you write me about anybody clattering any noncens, you need not be afraid of that about anything, for I am determined not to mind anything." And in a third, speaking of some express to be sent to Edinburgh, she says, "Till you heare the consequences thereof, I think you better not trust any writer, which you shall hear the moment the express comes back. As I see you mean nothing but what is genteel, you may expect nothing else at my hand." If the letters be *literatim* preserved in the printed copies of the trial, they show more command over spelling and grammar than was common to the female gentry of the period.

Whether justly or not, the laird's jealousy was roused, and he refused to permit his brother to be any longer a sojourner in his house. He was overheard reproaching his wife, and using an expression not very explicit, "that she and the lieutenant were as common as the bell that rings on Sabbath." The account he gave of the matter to a friend was, "that he had forbid his brother, the captain, the house, on account of suspicions; and he said that his wife was too much taken up in doing things for his brother, the captain, and not for himself; and

that, at the same time, he mentioned some differences he had with his brother concerning money-matters." The wife expressed fierce indignation at the dismissal of the brother-in-law, but it might have been called up as readily by the scandalous suspicions which it excited as by the loss of her paramour. Some of the witnesses said she openly threatened that her husband should have a dose, and her mother-in-law—a very aged woman—said she believed Catherine would stick at nothing, and warned the husband of his danger.

In this state of matters, one morning, after having had some tea, the laird was suddenly seized with spasms and other evil symptoms, which accumulated until he was released from his agony by death, in a few hours. He exclaimed about sensations of burning and thirst—drank much water, and vomited painfully. He "complained of a burning at his heart, as he called it; and complained bitterly of pains in the brauns of his legs, and said they would rend; and desired the witness to bind them up for him, which the witness (Anne Clark) accordingly did. That there was a severe heaving at his breast and strong caw, and he cried, to keep open the windows to give him breath. That he was constantly in motion, moving his head, his legs, and his arms. That she observed in the afternoon he

did not speak plain, which she supposed was owing to his tongue having swelled—but she did not see his tongue. That about an hour, or an hour and a half before his death, he had an intermission of the vomiting; but that, at length, he was again attacked with a most severe press of vomiting, after which he fell back upon the witness, who was sitting behind him in the bed supporting him, and expired."

That he had been poisoned by his wife, was a conclusion immediately adopted by those connexions who were not her friends. That we may judge in a general way how far the evidence was conclusive, let us follow the circumstances attested by the witnesses from the beginning.

James Carnegie, a surgeon in Brechin, remembered to have received an invitation from Lieutenant Ogelvie, with whom he was acquainted, to meet him at a tavern. This was on some day near the end of May—it was on the 23rd of May that the lieutenant was forbidden his brother's house, and on the 6th of June that the death took place. The surgeon found Ogelvie engaged with two friends—Lieutenant Campbell of his own regiment, and Mr. Dickson. He took the surgeon aside, "and told him that he was troubled with gripes, and wanted to buy some laudanum from him, and at the same

time told him he wanted to buy some arsenic, in order to destroy some dogs which spoiled the game." The surgeon was not sure if he could supply the articles wanted—he would see when he returned to his surgery. When he did so, "he found he had some of both, and put up a small phial-glass of laudanum, and betwixt half an ounce and an ounce of arsenic, both which he delivered next day to the lieutenant, after the witness had dined with him and Lieutenant Campbell next day in Smith's. That Lieutenant Ogelvie took him into another room away from Lieutenant Campbell, when he was to receive the laudanum and the arsenic, and then the witness delivered them to him. That the price of both was a shilling. That the arsenic was pulverised, and Lieutenant Ogelvie having asked how to prepare it, the witness gave him directions. He had sold of the same arsenic formerly to people for poisoning of rats, and heard that it had the desired effect. He has been accustomed, when he sold arsenic, to take receipts from low people who bought it, but never from gentlemen; and as the witness knew Lieutenant Ogelvie, and had a good opinion of him, he did not ask a receipt from him, although, when the lieutenant spoke about it first, the witness said to him, 'We

used to take a receipt for arsenic;'* that the lieutenant answered, 'See first if you have it,' adding at the same time, 'very good.'" It might be inferred from this, that he hinted to the lieutenant his desire to possess an acknowledgment for the arsenic, but did not press his request on a gentleman and an acquaintance. The report of this surgeon's further examination is curious, since it shows how extremely uncertain and empirical any decision on the use of poison must have been at that time. He said he "got his arsenic from a druggist in Dundee —but how long ago he cannot say, there being a small demand for arsenic at any time." When the surgeon was cross-questioned by Mr. Crosby—the prototype of Scott's Pleydell—he said he wrapt the arsenic up in the form of a pennyworth of snuff, but "he cannot take upon him to say, from looking at arsenic, whether it be arsenic or not—nor can he say from the taste, for he never tasted it; but that he bought this as arsenic—had the name marked upon it, upon the package—and heard from those he sold it to that it had killed rats."

One of the chief circumstances bearing against Lieutenant Ogelvie, was his uneasiness about this

* This precaution, which the Brechin apothecary appears to have adopted in theory rather than in practice, is substantially that which has been adopted by the legislature.

purchase. It is pretty well known that, in Scotland, the most powerful instrument for detecting crime is the declaration of the accused, solemnly recorded before a magistrate, immediately after his apprehension, and retained, that at the trial it may be compared with the evidence of the witnesses, and the whole history of the transactions as they are one by one developed. The declaration of a guilty man is almost sure to betray him by palpable inconsistencies; and knowing offenders deem it their wisest policy to close their lips—a policy accompanied by the minor inconvenience of substituting a general suspicion for specific evidence of guilt. But it is sometimes supposed that the inferences from the declaration and the evidence, as compared together, are too strictly interpreted, and that the accused is held as concealing or denying the circumstances of the crime, when he is only keeping out of view unfortunate appearances which he fears may be against him. A believer in Lieutenant Ogelvie's innocence would put such an interpretation on his statement, in his declaration, "that within these two weeks he was at the town of Brechin, and in company with James Carnegie, surgeon of that place, but that he received from him no laudanum, or any other medicine whatever." No allusion is made to the arsenic. When Ogelvie was apprehended, a certain

Patrick Dickson was employed by him to go to the surgeon, "and talk to him that he might not be imposed on by anybody." He "went and conversed with Mr. Carnegie, who informed him that he had sold the prisoner some laudanum and some arsenic, for both which he received a shilling; and the witness returned to Forfar, and communicated to the prisoner what Mr. Carnegie had said—upon which the prisoner seemed to be under some concern, and seemed desirous to speak with Mr. Carnegie, without either confessing or denying that he had bought the arsenic, for he had only acknowledged buying the laudanum on the Saturday before." And now he was anxious to have an alteration made on his declaration; but this could not be—he might make additions, but for what was recorded *litera scripta manet.*

Such being the state of the case as to the purchase of the poison, let us see how its destination and use are supposed to be traced.

A certain Andrew Stewart, a village tradesman, had casually mentioned to the lieutenant that he had occasion to visit Eastmiln on the following day. He stated, that "before he went off, Lieutenant Ogelvie delivered to the witness a small phial-glass, containing something liquid, which he said was laudanum; and also a small paper packet,

which he said contained salts; and that the morning of the day preceding, the witness saw the lieutenant working among some salts—at least, which appeared to the witness to be salts—which were in a chest belonging to the lieutenant. That the phial-glass was round, and knows that there was another phial-glass in his own house, which was square. That he is positive, as he has already deposed, that one phial-glass was delivered to him by the lieutenant, and cannot say with certainty that two might not have been delivered to him by the lieutenant, but rather thinks he got only one; and that, at the time when the above particulars were delivered to him, the lieutenant desired him to deliver them privately into Mrs. Ogelvie's own hand. That he did not see the packet made up, nor did he open it to see what it contained. That in the foresaid packet there was a letter directed for Mrs. Ogelvie, of Eastmiln, which letter was sealed both with wax and a wafer; and that round the packet there was a loose paper of directions in what manner the laudanum was to be used. That when he came to Eastmiln, on the Wednesday afternoon, he was carried into a room where old Lady Eastmiln* was;

* It was the practice in Scotland to call the laird simply by the name of his estate, *e. g.* Eastmiln, and as it was necessary to distinguish the wife from the husband, gallantry awarded to the former the flattering prefix of "lady." So would the hum-

and that, within a short time thereafter, Mrs. Ogelvie, the prisoner, and Miss Clark, came into the room. That, at the desire of Mrs. Ogelvie, he followed her into the Easter room, where Mrs. Ogelvie having asked him if he had brought any word to her from the lieutenant, he delivered to her the several particulars above mentioned, which the witness saw her immediately put into a drawer in the room. That he did not see her read the letter at that time, but that she put the whole together into the drawer. That soon thereafter Miss Clark asked the witness what he had brought with him from the lieutenant to Mrs. Ogelvie, or if he had brought anything with him? He at first said he had brought nothing, but upon Miss Clark's pressing him with great earnestness, he at last informed her of the particulars he had brought. That, upon this, Miss Clark said that she was afraid Mrs. Ogelvie might poison her husband. That thereafter Miss Clark, in presence of the witness and the old lady, desired Eastmiln not to take anything out of his wife's hand except at the table; to which he answered that he would not. That the old lady joined with Miss Clark in desiring Eastmiln to take nothing out of his wife's hand, but that the witness was at that

ble helpmate of the owner of a couple of hundred acres of bog and stone be denominated.

time very much displeased with both, as he then had no suspicion that Mrs. Ogelvie had any design against the life of her husband."

The account which the female prisoner gave of the matter in her declaration had a simple and satisfactory complexion:—"That Andrew Stewart, besides the letter, brought her two doses of salts, and a small phial-glass with a little laudanum; and that the letter was but a quarter of a sheet of paper, containing, mostly, directions about the salts, and how much of the laudanum to take; but whether the letter was open or sealed she does not remember. That before Patrick Ogelvie left his brother's house, she asked him, any time he was in Alyth, to buy for her and send to Eastmiln two doses of salts and a little laudanum, as she slept very ill." If there was any truth in this account, it was certainly more like the transaction of a homely brother and sister-in-law, than of criminal paramours.

The Miss Clark, whose suspicions were awakened, is the same of whom some account is already given. One of the strange mysteries of the case is, that this woman appears to have made up her mind, even before the arrival of Stewart and his package, that Mrs. Ogelvie was determined to poison her husband. She vented her suspicions to Stewart and to the old lady, and according to her own account, she set off

to consult the parish clergyman in the emergency, but did not succeed in finding him. Having now seen the evidence that the poison reached Eastmiln, let us see what light is thrown on the method in which it was used.

On the day when the package had arrived, there had been high words between Eastmiln and his wife, and their subject was an extremely awkward one. She was occupied in making cambric ruffles for the lieutenant. She let it be understood that the material had been left behind by the dismissed brother-in-law; but a chapman or pedlar had just been dunning the laird himself for payment of an account for it, and thus it appeared that Catherine was incurring debts in her husband's name to decorate her paramour. The laird went forth sulky, spent the day with his tenants on the other side of the hill, and, returning in the evening in no better humour, went to bed without supping.

Next morning, breakfast was ready "between eight and nine — a little sooner than ordinary." This was to accommodate Mr. Stewart, who stayed all night, and desired to depart early in the day. Mr. Stewart saw Catherine Nairn pour out a bowl of tea, and walk from the room with it, saying, that she was to give it to her husband, who was in bed. As she went up-stairs with the bowl, a servant had

occasion to follow her. According to the evidence as reported, "she followed her mistress up-stairs, wanting some beef out of the beef-stand, and saw her go into a closet adjoining her master's room. That the witness followed her into the closet, demanding the beef; but that her mistress bade her go down stairs, as she was not ready yet—and she was always wanting something; and that Mrs. Ogelvie appeared to be in a passion at her. That her master was at that time in bed, and that when the witness was in the closet, she saw Mrs. Ogelvie stirring about the tea, with her face to the door; but that she did not see her mistress, when in the closet, put anything into the tea."

Soon afterwards, the rest of the family sitting at breakfast, Mrs. Ogelvie made the remark that the laird and Elizabeth Sturrock was well off, having got the first of the tea. Anne Clark states that she was startled and alarmed by this announcement, and she appears to have expected what followed. Elizabeth Sturrock stated that Catherine Nairn came to her, and saying the laird had got his breakfast, desired that *she* would say she had got breakfast too, though she had not. The laird had gone out to the stable, and he was seen immediately afterwards, by Stewart, approaching the house under palpable symptoms of internal agony. His wife was

the first who announced at the breakfast-table that the laird was very ill. According to Anne Clark, she spoke with levity, and, seeing her weeping, said, "Are you daft?" Then followed the poor man's agony and death, as it has been already described. He did not, however, depart without leaving on the evidence the impression of what occurred to himself. A servant brought him some water in the same bowl from which he had drunk the tea; but he bade it be carried out of sight, exclaiming, "Damn that bowl, for I have got my death in it already." He said, in the hearing of another servant, that "he was poisoned—and that woman had done it." A neighbour called during his agony, and asking him what he believed to ail him, was answered, "I am gone, James, with no less than rank poison."

No surgeon saw him before he expired. There was much confused testimony, as there generally is on such occasions, as to what the several persons present proposed, or hinted about medical advice. As to that Catherine herself, it was stated by Stewart that "he proposed to Mrs. Ogelvie that a surgeon should be called to his assistance, to which she would not agree, stating that he would be better;" and, upon the witness renewing this proposal, she stated that she would not for any money

that a surgeon should be called, as the consequence of this would be to give her a bad name from what Miss Clark had said of her. She at length, however, consented to a messenger being sent to a neighbouring surgeon; but he arrived too late. There was little adduced in exculpation to meet this evidence, such as it was. It was proved that the deceased was often subject to bad health; and he had, on an occasion recently before his death, complained of internal pain, and had gone to a neighbour to get heated chaff applied to the pit of the stomach for its relief.

Let us now see what occurred after the death. According to Anne Clark, whose evidence is always suspicious, Lieutenant Ogelvie, when charged with sending the poison to Mrs. Ogelvie, observed hastily, "that he did not think she could have had the heart to use it;" but Stewart stated that, on his advising him to make his escape, the lieutenant said, "that God and his own conscience knew that he was innocent." The surgeon who had been sent for—but who did not arrive until two hours after the death—in his evidence, said, that immediately on his arrival "he was carried up by a servant to Mrs. Ogelvie's, the prisoner's, room, where she was sitting; and she appeared to be in great grief and concern for her husband's death, and desired the witness, that what-

ever he might think he discovered to be the cause of her husband's death, that he would conceal it from the world. There was nobody else present with the witness and the prisoner at that time. Upon going to the room where the corpse lay, and afterwards going out of the house, he met with Mr. Ogelvie, the prisoner, who went up with him to the room where the corpse lay, and appeared to be in great grief and concern for his brother." When the opening of the body was subsequently spoken of, neither of the prisoners seemed to oppose it. The youngest brother of the deceased laird, Alexander Ogelvie, gave orders for stopping the funeral until the body was medically inspected; and the servant, Elizabeth Sturrock, who told this to Mrs. Ogelvie, declared that she showed great agitation, "weeping and crying, and wringing her hands and tearing herself." The servant, who, it will be remembered, is the same who was said by the prisoner to have taken tea at the same time as her husband, made this further statement:

"After Mrs. Ogelvie heard the sheriff of Forfar was coming to examine them at Eastmiln, Mrs. Ogelvie desired the witness to say to the sheriff that the witness had seen Mrs. Ogelvie mix up the bowl of tea which she, Mrs. Ogelvie, had given her husband the morning of the day on which he died;

and that the witness had drunk some of it before Eastmiln tasted it; and that she likewise drank off what Eastmiln left of it. She likewise particularly desired the witness to say that the witness was in the closet with her, Mrs. Ogelvie, when she mixed up the bowl of tea; and that she, Mrs. Ogelvie, gave her husband some short-bread with it; that Mrs. Ogelvie told the witness, that if the witness would say as thus directed, she would stand by the witness that no harm should happen to her; that the witness should go with her wherever she went, and that while she, Mrs. Ogelvie, had a halfpenny she should have half of it. That Mrs. Ogelvie spoke to the witness in this manner several times; that Lieutenant Ogelvie was present upon these occasions, heard what Mrs. Ogelvie desired the witness to say, and he himself desired the witness to say as Mrs. Ogelvie directed her."

The unhappy woman's judicial declaration corresponded with this story. She stated that she had taken the tea straight from the parlour to her husband's bedroom, and that Elizabeth Sturrock drank from the bowl the remainder of the tea which Ogelvie had left. The nature of a judicial declaration has been already mentioned, and the policy often adopted, of a prisoner refusing to answer, has been alluded to. Mrs. Ogelvie, after having emitted a brief declaration, consistent with itself, but not, as

we have seen, consistent with the evidence of the witnesses, being asked if there was anything in the declaration which she desired to correct or alter, "she refused to answer this or any other question put to her, being so advised by her friends and counsel." Accordingly, the questions follow in a string, without answers, thus:

"In what drawer, and in what room of the house, did she put the medicines and letter which were delivered to her by Andrew Stewart, the day before her husband's death?

"Did she read the letter? What were the contents? Has she the letter? or how has she disposed of it?

"By whose advice did she order the above medicines to be sent to her?

"What was her ailment? Did she mention such ailment to any in the family?" &c.

She obeyed the injunction of neutrality so strictly, that she not only remained dumb, but would not sign, after the usual form, her refusal to answer the questions. The lieutenant, after having committed himself in his first declaration, followed the same negative advice in all but its last and gratuitously pertinacious feature, declining to answer questions on a second examination, but readily adhibiting his signature to the refusal.

The only element that remains is the highly important one of the symptoms and morbid appearances of the body, and the extent to which they received a satisfactory investigation. The medical man who was called in, and came too late to minister to the sufferer, appears to have taken no notice of any morbid characteristics, though he was in the room with the body. He was required, some time afterwards—it is carelessly called five or six days—along with other medical men, to inspect the body. "He observed the nails and a part of the breast discoloured, and his tongue swelled beyond its natural size, and cleaving to the roof of his mouth." He and another surgeon spoke of these symptoms as indicative of poison, but they spoke vaguely, as men who drew their conclusion, not from specific symptoms, but the general aspect of the whole affair. The scientific witness who gave the fullest account of the state of the body, was Doctor John Ogelvie, physician in Forfar. He said:

"That upon his arrival, Alexander Ogelvie, the defunct's brother, desired the deponent to go and inspect the corpse, which were* then lying in an outhouse; that he found the corpse in its grave-

* There are two words which it is an inveterate practice in Scotland to treat as plural—*corpse* and *broth*, or soup. The Scotticism, however, does not pervade, as will be seen, the whole of Mr. Ogelvie's deposition.

clothes and in a coffin; and, having inspected the body, he observed that the face, the arms, and several other parts of the body, were black and livid, and that the nails were remarkably black; and as to the tongue, it was locked fast by the jaws, so that he could only observe a small part of it which projected beyond the teeth, which part, being the top of the tongue, he observed to be white and rough, and of a very unusual appearance. That the breast was white, and the lips pretty much of a natural colour. That from the appearance above described he could draw no conclusion as to the cause of the defunct's death, as almost all these appearances might have arisen from the putrid state the body was then in; and that the only thing that appeared extraordinary to him was the appearance of the tongue above described. That he had some inclinations to have opened the body; and if the two surgeons who he had heard had left Eastmiln that morning had been there, he believes he might have done so; but as they were gone, and the witness, in his own opinion, thought the body too much putrified to be opened with safety to the operator; and as he was likewise of opinion, that in such a state of putrefaction no certain signs could have been discovered of the cause of the death by opening the body, the witness declined to do it."

Probably he was right in believing that the scientific acquirements of the Forfarshire practitioners of that age might have failed to ascertain the presence of arsenic, evidently pointed at by the whole tenor of the proceedings as the cause of death. But any one acquainted with the rigid method of conducting such inquiries at the present day, cannot fail to observe how lamentably this inquiry is deficient in the main element of evidence as to poisoning—the existence in the body either of the poisonous deposit, or of symptoms that put beyond a doubt that it has been there—in short, the evidence that death was brought about by poison. Nay, a slight enlargement of the evidence in this case only served to attenuate it. An Edinburgh physician was adduced, who had witnessed an undoubted case of death from swallowing arsenic, and he gave an account of the vital symptoms of the case, which coincided with the account of Ogelvie's death, stating at the same time that "he could discover nothing externally upon the body different from the appearances after a natural death."

In the case of Madame Lafarge, the French jurists were much blamed by our own, because there was no security that the parts analysed for the discovery of poison had been duly protected from the possibility of being tampered with, by being imme-

diately sealed up under official inspection, and opened for the experimenters by persons who could pronounce the seals unviolated. There was thus a gap in the chain of evidence connecting the existence of the poison with the body. But in the case of the Ogelvies there was no evidence even of the existence of the poison. Not only was it not proved that poison existed or had existed in the body, but it was never proved that any poison, other than a little laudanum, which was not the kind pointed at, had ever entered the man's house. In all charges of this nature the main substantial fact, to which all others are secondary, is, that the death has been caused by poison. It is not necessary that its presence should be actually detected—it may be shown that it has existed though it exist no longer, and it may be proved, by immediate examination of the remaining contents of a drinking-vessel, or otherwise, that poison was actually consumed by the deceased. Having separately and as an independent fact proved the death by poison, we have a safe position whence, from the conduct and motives of parties, we may alight on those who have committed the crime.

In this instance, however, the process was the reverse. It was inferred from the conduct of the wife and the brother that they intended to administer

poison, and the circumstances of the death were found to adjust themselves with the anticipated conclusion. Certainly, at the present day, no bench would charge a jury to convict on such a proof. The jury, by a majority, according to Scottish practice, found both the prisoners guilty. If this case, the particulars of which have been so fully preserved on account of the contemporary local interest which it created, stands as a reproach on the jurisprudential science of Scotland in the eighteenth century, a companion may be found to it in the trial of Captain Donellan, in England, who fifteen years later was convicted of poisoning Sir Theodosius Boughton, on evidence which had a like flagrant defect.*

If we had these defective proceedings arraigned before one who had lived through them into the stricter practice of the present day, and was effectively conversant with both, we would probably find him justifying and lauding the one, without

* Some English contemporary critics, however, made severe remarks on the case of the Ogelvies. In the Gentleman's Magazine, vol. xxxv., p. 524, there is a string of paragraphs, each beginning, "It is strange that," and enumerating the anomalies of the case—particularly the publicity of the indecent familiarity in which, if the witnesses were to be believed, the prisoners had indulged. This has been already alluded to. A document, professing to be the opinion of English counsel condemnatory of the proceedings, was published in some of the Edinburgh newspapers—their editors were brought before the Court of Justiciary and censured.

utterly condemning the other. He would, perhaps, congratulate us on those vast accomplishments of natural science which have placed the means of accurate judgment in our hands, while palliating the imperfect operations of those who, in the necessity of their position, were bound to come to practical conclusions. It would be said that murder must not walk about triumphant because justice cannot take a perfect aim—the bolt must be hurled though it possibly may hit the wrong mark. And this is but a further illustration of the view already suggested, that in the progress of science the beneficent and protecting influences far outstrip the deceptive and the destructive. While the poisoner is ignorant and clumsy as ever, the detecter is lord of scientific light.

The male convict was condemned to death and executed—the female was still destined to make some sensation in the world. The accounts of the day say that Ogelvie behaved at his execution "with decency and resignation," until after he was turned off, when a horrid incident occurred—the noose slipped, and he fell to the ground. Half strangled, wounded, and probably little conscious of his position, he struggled with the men who dragged him up the ladder. His dying speech, while it does not seem to have been devised as a pleading for

mercy, has not the brazen effrontery of the hardy criminal seeking to stultify his judges. He maintained his innocence, saying he desired to employ the few hours he had to live in the way most conducive to his eternal happiness; he continued, "And though my years be few, and my sins many, yet I hope, through God's grace and the interposition of my blessed Redeemer, that the gates of heaven will not be shut upon me, in whatever view I, as a criminal, may be looked upon by the generality of mankind. And I hope those who best know me will do me justice when I am gone. As to the crime I am accused of, the trial itself will show the propensity of the witnesses, where civility and, possibly, folly are explained into actual guilt, and which, possibly, had the greater effect in making them believed; and of both crimes, for which I am now doomed to suffer, I declare my innocence, and that no persuasion could ever have made me condescend to them."

The female prisoner pleaded pregnancy in arrest of judgment, and for some time distracted the Court of Justiciary by inquiries of a most perplexing character. From the rank and influence of her connexions, there was a general popular belief that she would not be punished. So far as the trial went, it was seen that she was abandoned as a victim.

The current against her could not be met. It was observed, and maintained by her counsel, that the jury had grown indecently impatient, and would not listen to the evidence in exculpation. It was afterwards suspected, not without some reason, that her friends had made up their minds to reserve any effort for her protection to a totally different arena from the Court of Justiciary. The Edinburgh prison—the famed Heart of Midlothian—was at that time renowned for nothing more than its singular unretentiveness, especially in the case of prisoners with powerful connexions. Accordingly, it would not have been with much astonishment that, on the 16th of March, 1766, the citizens of Edinburgh learned that the interesting convict had made her escape the day before,—had it not been that nine days previously she was delivered of a girl. The Court of Justiciary were to have met on the 17th, for the purpose of passing on her sentence of death. It is stated, in the Gentleman's Magazine for April, that "she was indulged on account of her weakness with the quiet and privacy which the nature of her illness required. She desired, however, that her room door might be left open for the benefit of the air, and being left alone for the night, she took occasion to dress herself in man's apparel, and walking out into the court, and mixing with the

strangers who were going out, passed unnoticed by the keepers." Her absence was not discovered, or at least avowedly made known, until two o'clock next day, and that being Sunday, would afford abundant excuse for a lax pursuit. On Monday the magistrates of Edinburgh offered a reward of 100*l.* for her apprehension, proclaiming their reasons for suspecting that she had started in a post-chaise, on Saturday night, by Berwick to England, "and had on when she went away an officer's habit and a hat slouched in the cocks, with a cockade in it. She is about twenty-two years of age, middle-sized, and strong made—has a high nose, black eyebrows, and of a pale complexion." A proclamation, subsequently issued by the secretary of state, offering a further reward of 100*l.*, sets forth that—

"A search was immediately made through the city, and a messenger despatched to endeavour to trace, and, if possible, overtake her on the London road. But all the intelligence he could get was, that a young gentleman, very thin and sickly, muffled up in a great coat, and attended by a servant, had passed through Hadington on Saturday, at midnight, and had pushed on with four horses, day and night, from stage to stage, towards London."*

In the Gentleman's Magazine for April, it is said,

* Scott's May, 1766, pp. 165-6.

"she seems to have been well seconded, for certain information was received at Mr. Fielding's office that she was at Dover on the Wednesday following, in the dress of an officer, endeavouring to procure a passage for France, which probably she has since obtained." And in the ensuing month's publication it is said, that "Mrs. Ogelvie, not having an opportunity to set off for France, returned from Dover to London, took a hackney coach at Billingsgate, got on board a Gravesend boat with a gentleman to accompany her, agreed with a tilt-boat there to take them over to France for eight guineas, and a guinea a day for waiting for them four days, in order to bring them back—which tilt-boat landed them at Calais, but is since returned without them." The agreement for waiting and bringing them back was of course intended to lull suspicion in the boatman.

The subsequent history of this heroine of a tragic romance is entirely traditionary. It is said that she made a distinguished marriage abroad, and lived a happy and contented life. But this is a kind of tradition common to great criminals who have escaped. Even that monster, the Abbé de Ganges, who aided his brother in the murder of his wife, by a series of unmatched cruelties, was traditionally said

to have afterwards acquired a lovely and devoted wife of high race.

Instances might be mentioned of a scepticism on the part of juries, in charges of poisoning, as remarkable as their readiness to be convinced in the instance of the Ogelvies. In 1795, Anne Inglis was tried for the murder of Patrick Pirie, in the parish of Alva, in Banffshire. Pirie had given her reason to presume that she would become his wife, but the swain proved false, and paid his addresses in another quarter. Anne Inglis was the servant of Pirie, but this did not render their union an improbable event, as both belonged to the crofter or small farmer class. On hearing of the intended wedding, she had been heard to say that "there would be a burial before there was a bridal." One day, after having taken a draught of ale from the hand of Anne Inglis, Pirie was immediately seized with violent vomiting, and acute burning pains. He lingered in agony for nine days, and as death approached, spoke of the draught he had received as the cause of his death. The body was opened, but no poison was found. There was much inflammation, and the inner coat of the stomach was corroded. The medical men had been asked, apparently when they were conducting the inquiry, whether these appearances might have

been caused by any destructive agent not perceptible, and they stated that it might have been caused by sulphate of copper, or blue vitriol, the traces of which might have been removed by the medicines which the man had imbibed. Dovetailing accurately with this view, on searching a chest belonging to Anne Inglis, a paper parcel containing sulphate of copper was found. Anne stated that she used it as a remedy for toothache, but it did not appear that she was suffering from that disorder. Some one had seen her with tea-cups in her possession, the edges of which were smeared with a bluish powder, and she desired that nothing might be said about it.* We have only the leading outline of the evidence on this trial. It would indicate a proof far more conclusive than that on which the Ogelvies were convicted, yet Anne Inglis was acquitted.

About thirty years afterwards, there occurred at the same circuit a trial, the result of which had a tendency, for a brief period, to shake the public confidence in the capacity of juries to deal with the niceties of poison-evidence. John Lovie, a farmer near Fraserburgh, was tried for the murder of Margaret Mackessar, his servant, by poison. Margaret was pregnant, and it was not disputed that

* The Black Calendar of Aberdeen, p. 176.

the paternity of her offspring was correctly attributed to Lovie. He had in vain attempted some of those means of tampering with the existence of the unborn, which seem, by a wise provision for the preservation of the race, to be only effective when they expose the life of the mother to eminent peril. His efforts in this direction were, however, of the clumsiest kind, and were only sufficient to subject the poor woman to gastric derangements. At length she was seized with all the horrible symptoms which indicate the operation of arsenic, and died in a few hours. A large quantity of arsenic was found in the stomach and intestines.

The circumstances which connected Lovie with the administering of the poison were these. He had got into the practice of talking with a farm-labourer, whom he employed, on the subject of poisons, as they worked together. He was in the habit of asking what would produce this and that effect—how much jalap would be a medicinal dose, and how much more would kill; what amount of laudanum would occasion only sleep, and what would produce death. His questions showed a mind as stupidly ignorant as it was depraved and cruel. One of the questions especially noticeable was about the name of "a white kind of poisonous stuff"—to which his companion answered, that he

supposed he meant arsenic. He had one day, in a druggist's shop in the neighbouring town of Fraserburgh, bought an ounce of jalap. He remarked that it was "a good dose." The youth who sold it to him asked if it was "for a beast or for a body;" and being told it was for a human being, he said it would be enough to kill one. Lovie then said he would divide it in two. Continuing the conversation, he asked what "was best for rats," and was told arsenic. Was there anything else? Yes—nux vomica; but it was not quite so effective.

Lovie returned to the same shop a few days afterwards, and said he must have the arsenic, as he was much troubled with rats. It was about five days after this that Margaret Mackessar, after having done her morning work in her usual health, was attacked with the fatal symptoms, immediately after taking breakfast. Lovie was in the fields at work. The farm-servant was told by Lovie's mother of the attack, and when he mentioned it to Lovie, the man observed that he reddened — a trifling matter in comparison with the other evidence. There was some conversation equally immaterial, in which Lovie, who had been at home, and had heard the sounds of her agony, though he had not seen her, remarked, that if she did not soon recover she would not be "lang to the fore," or long

in existence. A far more telling circumstance was, that the poor woman's mother passed him, in the course of his work, three times within speaking distance, but he neither told her of her daughter's state, nor would he permit the servant to tell her. No medical man was sent for until the last struggle approached, and he did not arrive until after death. The friends and neighbours talked of opening the woman's body, but Lovie artfully persuaded her immediate relations to object to a measure which, in the state in which she had been, would tend to blast her character.

The body was buried, and, doubtless, Lovie now breathed freely, but not for a long time. The suspicious character of the affair had spread so far that a judicial investigation was necessary; and the grave had scarcely closed when the rumour passed that it was to be re-opened. His uneasiness was very perceptible. In his deep ignorance he knew nothing of the scientific objects of the disinterment, and asked if the body would be found swollen if the woman had died of poison. As has been already explained, the stomach and intestines were saturated with arsenic. To account for poison having been in the house, Lovie said that he had procured some stuff to rub into his cattle, and that having used it in a saucer, he threw the portion which remained in the

saucer on a certain dunghill. The dunghill was analysed, but the presence of arsenic, or any other peculiar chemical substance, could not be detected; and it was pretty well proved that the cattle had no disease requiring such a remedy.

A more conclusive case has seldom been presented to a jury, but the public were startled by a verdict of "not proven."* This was less surprising to persons present during the trial, than to those who merely read the evidence. Mr. Cockburn made at that trial one of his greatest efforts of persuasive oratory, and delivered an oration which, in seductiveness to such a tribunal as he addressed, has probably never been excelled. It is the established rule, right or wrong, that so long as he uses no trickery in the development of the evidence, the prisoner's counsel may treat—nay, is bound to treat—that evidence in any manner which he thinks will afford the accused the best chance of escape. Mr. Cockburn did not, in this case, trespass a shadow beyond

* This middle finding is peculiar to Scotland. Some have held it to be a valuable institution, as leaving a stigma of suspicion where there is not sufficient evidence to convict—a stigma which never leaves its object if he is guilty, and is easily removable if any event should occur enabling him to explain suspicious facts and make his innocence apparent. On the other hand, this form has been objected to as a too accessible resting-place for jurors unwilling to incur the responsibility of finding guilty, and unable to reconcile their consciences to a finding of not guilty.

the established rule. He saw that he had to deal with a stupid jury, and with consummate skill he lowered the tone of his persuasions to hit their stupid minds. He made them view the whole arrangement of circumstances connecting the administration of the poison with Lovie, as a flimsy fabric of legal ingenuity, artificially constructed to make up for what was absolutely necessary before a man could be convicted and executed for such a crime—that he should be seen to have given the woman that which caused her death.

It was remarked, with concern, that an acquittal in almost similar circumstances had occurred but a few months before, in the same year (1827). The antecedents were alike, down even to the tampering with the existence of an unborn babe; but the enemy was not the seducer himself, but his mother. The arsenic was purchased with the same declared object—the slaughter of rats. The damnatory evidence was, however, slightly shaken by two elements —the one that rats had been known in the premises, the other that the victim was subject to low spirits on account of her degraded condition, and spoke of suicide.

Such acquittals seemed dangerously to adjust themselves to the peculiar notions which the uncultivated mind forms of poisoning. It seems to

them a mode of murder—if its operation really be counted murder in their eyes—divested of many of the terrors, natural or supernatural, which hover over bloodshed. Poisoners of the uneducated class have been observed to evince mild and temperate characters, little given to acts of violence, ferocity, or cruelty in other and more tangible shapes. They preserve a stolid calmness after the deed, undisturbed by those external reflections of a guilty conscience, which, in dreams or fancied apparitions, haunt him who has recollections of the death-struggle, the gaping wound, and the tell-tale stains of blood.* What the perpetrator does in poisoning is a simple, calm, and serene act of seeming innocence; what follows seems the working of nature, and is but a fac-simile of many common forms in which she divorces the spirit from the clay. In the eyes of rude, uncultivated minds, these external differences cover nearly all the space that they are capable of seeing between guilt and innocence.

The recklessness often shown by the uneducated poisoner implies a corresponding consciousness of security, as if the danger of detection were as limited as his own sense of guilt. In the case of Hay, tried at the Western Circuit in 1780, where the antecedents

* As, for instance, that wholesale German poisoner, the Frau Zwanziger, whose adventures are related by Feuerbach.

were like those of Lovie's case, it was proved that he had gone to the house of his victim, and cast arsenic into the meal which was in preparation for the family, and into the store from which future meals were to be supplied. The mother of the family died next morning, her husband a few days afterwards, and the intended victim escaped. The deed was no longer veiled in the darkness of unscientific days, for the poison was discovered by the illustrious chemist, Black.*

* A little incident of this case is curious itself, though disconnected with the present subject. In Lockhart's Life of Scott, there is a well-known anecdote, attributed to Lord Braxfield, one of the Scottish judges. There was a certain laird among the judge's friends, with whom he used to engage in protracted and hard-fought games at chess. That laird having been tried and convicted for forgery, Braxfield, after condemning him to death, added, "And now, Donald, I think I have check-mated you at last." The late venerable Lord Justice General, Mr. Hope, who possessed in an eminent degree the quality of standing by his friends, published a letter in Blackwood's Magazine, for November, 1844, saying, "More unfeeling and brutal conduct it is hardly possible to imagine. The moment I heard the story, I contradicted it, as, from my personal knowledge of Lord Braxfield, I knew it could not be true. Lord Braxfield was certainly not a polished man in his manners, and now-a-days especially would be thought a coarse man. But he was a kind-hearted man, and a warm and steady friend, intimately acquainted with all my family, and much esteemed by them all. I was under great obligations to him for the countenance he showed me when I came to the bar just sixty years ago, and therefore I was resolved to probe the matter to the bottom." The result of the investigation was, that Lord Braxfield had not presided at any trial for forgery except one at Stirling, "and then the culprit,

One of the very small number of executions which, within the past fifteen years, have occurred in Edinburgh, was that of a woman who had poisoned her husband. The cause of the death was abundantly evident, and as to its connecting links with the accused, it appeared that, after one of their numerous brawls, she rushed forth, her face swollen and blackened with recent blows, and bought the arsenic that was to avenge them. In explaining her object to the dispensing chemist, she gave the usual story of the house being infested with rats—and to such a pitch of audacity had they gone, that in their gambols they tossed down a lump of wood

instead of being a friend, or even a common acquaintance of Lord Braxfield, was a miserable shopkeeper in the town of Falkirk, whose very name it is hardly possible he could ever have heard till he read it in the indictment. Therefore I think I have effectually cleared his character from the ineffable infamy of such brutality." There may be possibly an opinion that this great judge's character has more serious stains to be cleared away than a savage joke. The present writer, however, has reason to believe that the expression about check-mating, on which the anecdote was founded, was used by Lord Kames at the trial of Hay. When the scientific analysis of the poison came out in confirmation of the previous unscientific evidence, his lordship said, "That's check-mate;" and if he meant it to be jocular, he is supposed to have had in view his contests with the prisoner's counsel. The author received this account from the son of a person who was officially present at the trial; and looking at dates and names in contemporary publications, he found them to correspond so completely with the story as orally delivered, that there was no reason to doubt its accuracy in this little detail.

from the roof, which had hit her on the head and blackened her eye,—she was determined to kill the rat who had done *that*. The woman's face had, throughout the trial, a character of hard and stupid obduracy. Its strong impassiveness was for once unbent at this part of the evidence, and the lips dissolved into a grim smile, as if the arid intellect within had some slight appreciation of a joke.

An instance of the strange recklessness of common poisoners occurred in 1829, when John Stewart and Catherine Wright were convicted of murder and robbery committed in a Clyde steam-boat. In the public cabin they had drugged a passenger with laudanum dropped in the liquor they enticed him to drink, and they picked his pockets when he was insensible or dead. Stewart seemed to consider this an ingenious device which nobody would ever detect, and among the companions who might consider it a fair enough speculation, he talked of it openly by a technical term of his own invention as "giving the doctor." It would be difficult to imagine circumstances better calculated for imminent detection than those in which this murder was perpetrated. The public were alarmed by the crime being repeated nearly in the same form four years afterwards in a public-house in Glasgow, by

a man named Byres and his wife. When the fatal consequences became apparent, the witnesses remembered that they had seen a dark substance at the bottom of the glass into which the prisoner's wife had poured the porter of which the victim drank. It is from instances such as these, that well-meaning people dread an exterminating series of murders from the invention of chloroform and other anaesthetics—but while they are in the hands of such clumsy operators, the number of executions will be a palpable measure of the corresponding injury and danger to society.

Among the natural concomitants of these peculiarities which we have seen attending poison murders is this, that the crime, unlike others of equally deep atrocity, sometimes breaks out in pastoral or other primitive rural districts, where, without any previous contaminating influence, the iniquity rises suddenly up like some great tropical plant in the midst of innocence and simplicity.* Some of the

* The author of an article on chemistry in the Edinburgh Review for July, 1851, says, in reference to the measure then before parliament on the sale of arsenic: "The introduction of a bill by Lord Carlisle for this purpose, and its subsequent passage in the present session of parliament, has recalled to our mind a state of things which existed in Normandy a few years ago, the cause and cure for which may suggest the adoption of other measures of prevention among ourselves also, in addition to the legislative measures already passed into a law

instances which have been already mentioned were of this character, leaving behind them the stains of the blackest crime in the midst of habits and ideas not contaminated by even the secondary offences of more densely peopled and advanced districts.

In Normandy, it had long been the practice, as it still is in some of our southerly English counties, to use white arsenic for the steeping of seed-corn, with a view to the destruction of insects and fungi—as the midge, smut, rust, &c.—by which grain crops are frequently very much injured. This abundance of arsenic among the people, and their familiarity with its use, brought every season before the courts, from the rural districts, a yearly crop of poison cases, in which arsenic had been employed for the destruction of human life. With a view to provide a remedy, it was at first remitted to the Departmental Society of Agriculture, to inquire whether this use of arsenic was indispensable, and whether in the *chaulage du blé* other substances of a less dangerous character might not replace it both effectually and economically. The experiments made by direction of the society enabled them to report that arsenic might be dispensed with, and that less deadly substances were as cheap and efficacious. A law was passed in consequence, forbidding the use of arsenic in the preparation (pickling) of seed-corn, and the annual group of poisoning trials disappeared. If, as we believe, it is chiefly in those parts of England where arsenic has been so employed for agricultural purposes, that our home poisonings with it have also been most frequent, the abandonment or prohibition of it in the farm might not only remove in some cases the means and direct temptation to crime, but might in others take away also a source of evil suggestions which afterwards lead to the purchase of poison for otherwise unthought-of ends.

> 'How oft the sight of means to do ill deeds
> Makes ill deeds done!'"

But more remarkable in this view than any of the instances already mentioned, was a tragedy that occurred in 1821, in the secluded parish of the Keig, in Aberdeenshire. There lived in a neighbouring parish a certain George Thom, a substantial small farmer of undoubted respectability, who had passed beyond his sixtieth year with an unblemished reputation. His wife, whose name was Mitchell, had two brothers and two sisters residing at the farm of Burnside. Her family had succeeded to some property by the death of a relation. It had been divided among them, and Mrs. Thom had received her fifth share; but her husband cast avaricious eyes on the other four. As the simplest means of acquiring them, he resolved to poison the whole family, and the operation seems to have occurred to him as a clever and original idea, which no one else would be likely to alight upon, and which did not involve the slightest risk of discovery.

Accordingly, one day he paid them a visit. It was unexpected—for he seems not to have been a man of social disposition—and he had not gone near his connexions since he had married their sister, though he was a frequent visitor before that event. He was hospitably received, and all supped together heartily and in sound health. Before going to rest, he expressed a desire—for

which there was no accounting—to sleep in the kitchen. As it seems, however, to have been much opposed, he gave it up. He slept as he had usually done when visiting the Mitchells of old, but he rose at an early hour in the morning—it was Sunday—saying that he wished to get clear through that part of the country before the people were on their way to church.

Very early in the morning, one of the brothers, who slept in the kitchen, heard some person in motion there. He slept in one of the beds shut close in with wooden doors, which the peasantry of the north of Scotland consider the perfection of warmth and comfort. He was too lazy to open the doors to see who the intruder might be, but satisfied himself that he was occupied close to the press. Thom was, at that time, mixing a quantity of arsenic with the salt, preserved in a box for general family use. One of the sisters proceeding to her household duties, entered the kitchen before he had left it, but after he had finished his work. She observed that he was shaking out of his pocket some crumbs of bread and cheese, which were covered with a white powder.

Thom set off, and at the first stage eat a hearty breakfast. He seems afterwards to have thought, that such an indication of health might be con-

sidered inconsistent with the state of matters he had left behind him; and he said to a person he met ere he reached his home, that he must have taken something that disagreed with him; if he had not obtained relief by putting a feather down his throat, and producing the effect of an emetic by the titulation, he verily believed he would have died.

The breakfast at Burnside was made of milk porridge. James Mitchell, one of the brothers, took little of it, feeling that it had "a sweet, sickening taste." The other brother and the sisters eat heartily, without observing any peculiarity in their food. We quote from an accurate abridgment of the evidence: "Before James got himself dressed he fell sick, and continued to get worse. He, however, set out for church, but on the way felt so ill, that he stopped awhile on the road to consider whether or not he should go in. When in the church, he felt himself 'turning blind.' After having eat at the Lord's table,* he came out of the church, and found, in the churchyard, his brother William, who said that he was very sick. William then went into the church and James returned home, having vomited severely by the way. When

* The table at which the elements are dispensed is so called in Scotland—it was the Sacrament Sunday, or half-yearly periodical time for Communion.

he reached the house, he felt all the lower parts of his body burning within; he now found that both his sisters were unwell, and had been vomiting. William now came back from the church and complained of great pain—there was a swelling in his breast rising to his throat, and his eyes were affected. Helen Mitchell stated that, on the Monday, she scarcely felt the ground below her, her feet being benumbed; she had a burning pain at her heart, with a great thirst: her left eye also was painful in the eyelid; and in this state she remained the whole week, and had not, at the time of the trial, recovered the full use of her limbs. Mary Mitchell stated that she had no feeling in her legs from her knees to her feet. On the third day, James Mitchell lost the faculty of his left arm, and felt his feet powerless. William Mitchell, who, as has been seen, had eat heartily of the potage, continued to grow worse and worse; and his eyes, which on the Sunday were painfully affected, almost lost their sight, the white of them becoming red. He entirely lost the power of his arms, and died on the Sunday following." James Mitchell, who slept with him, described his death in a very simple and affecting manner: "He rose to look for a drink, returned to his bed, but did not speak to witness; lay down on his bed; stretched himself and gave a

terrible groan, then lay quiet. Witness jogged him, but he did not speak; again jogged him, but received no answer: he then put his arm over him and found him in a cold, deep sweat. Witness then rose and went to his sisters, and told them that he thought 'William was gaen to wear awa out amo them.' [Here the witness was much affected, and shed tears.] All of them came to the bed; he could not speak, but he was not quite dead; he was moving, but that was all, and he died immediately after."*

This was the only immediate victim of Thom's comprehensive scheme—the other brother and the two sisters lived, with shattered constitutions, to give testimony at the trial. They early suspected the foul play of which they had been the victims; but for the respectability of their family, they desired the matter to be hushed up. When, however, Thom and his wife came to the funeral—the former in brazen effrontery, the latter in unconscious innocence—manifestations of feeling could not be avoided. The neighbours had said they would not attend the funeral if Thom were there. He had not been invited, and when he appeared, was desired to depart. One of the sisters bade Mrs. Thom look at the body; she did so, but her husband would not

* Black Calendar of Aberdeen, p. 225.

accompany her. His wife very unconsciously said to him, "Nelly says my brother was poisoned." He remarked, that it was possible—he might have got it from toads or puddocks (frogs) in the burn.

Thom remained stolidly indifferent during the trial, and when a verdict of guilty was brought in, he brushed his hat with his hand like one who was at ease in his mind, and said to some counsel near him, "Gentlemen, I am as innocent as any of you sitting there." He maintained this form until the hope of pardon was past. He then, according to the practice of a large class of criminals, became pious, after a confident fashion, as one secure that the dregs of life, spent in hypocritical professions, would outweigh in his favour the life-long adaptation of his corrupted heart to the perpetration of the darkest villany. That his professions were self-deceptive, was shown by a little incident. Under the shadow of his religious exercises, he slipped a note into the hand of a son by his first marriage, begging to be furnished with poison, that he might pass to the great account with an additional crime on his soul.

He made a confession which showed that, though substantially correct, there had been one false element in the conclusion derived from the evidence. It was believed that he had mixed the poison with the meal—in reality, he had put it in the salt. He

seemed to have thought that it would thus operate in doses so small, and therefore so gradually, that its deadly progress might seem the effect of natural disease. He said, what is in conformity with the remarks already made, that after depositing the poison, he scarcely felt that he had committed any crime. It required the panoply of justice, and the prospect of the gibbet, to arouse his dormant, moral perceptions to a sense that, in the simple act of depositing that white powder, he had actually broken "into the bloody house of life," and outraged the most supreme law of God and man.

One fortunate feature to be remembered in considering poison as an instrument of death is, that it is not the ready weapon of the irascible passions; it is the means of deliberate, if not calm assassination. It is not always at hand, and the most reckless will use some caution, productive of delay and possible penitence, in procuring it. Even after the snare is set, the intending murderer may repent and avert the calamity. A remarkable case, however, occurred of the momentary and impulsive use of one of the corrosive poisons; and,—as it has often been seen in momentary crimes, which leave no track of perpetration,—the murderer was more likely to have escaped detection than if the deed had been cautiously planned.

In 1830, there lived, in Aberdeen, a butcher and his wife named Humphrey. They were intemperate, keeping low company, and ever quarrelling. They used to recriminate murderous intentions against each other, as people of their rank, when quarrelsome and dissipated, often do. The man used to say to his wife that she would some day face Marshall-street for him—the gibbet stood opposite to Marshall-street—and the prophecy fell true. Once, when in her fury, she brandished a razor—he bared his neck and said, "There, do it now, for you will do it some time." One evening, Humphrey returning home in a sullen, drunken fit, took umbrage at some visitors in the house, and kicked and struck his wife. She was heard to say, "Lord God! if anybody would give him poison, and keep my hand clear of it." He was on that night especially unreasonable and capricious, demanding, after midnight, a supper of beefsteak to be brought to his bed, to which he had staggered. He fell asleep before the dish was ready. It was his custom, like most drunken slumberers, to sleep with his mouth open. His wife, smarting with pain and fury, seeing him lie thus, filled a wine-glass from a phial of sulphuric acid which stood near, and poured it down his throat.

The tortured man raised a frightful hubbub. He

lived next day in great agony, and was visited by the neighbours. He said, "Oh! woman, woman, you have tried to do this often, and you have done it now." Such exclamations would have passed among the ordinary recriminations of this ill-conditioned couple, and the form of the man's death would not have been considered remarkable in an inveterate dram-drinker, but an incident, extremely trifling, at once pointed to the nature of the crime. A neighbour woman sat with her child on her knee in an adjoining room, by a table on which stood some empty drinking glasses. The child was playing with them, when suddenly it uttered a scream, and flung down a glass which it had just put to its mouth. The mother put her tongue to the glass and tasted the burning acid.

Such incidents are called the dispensations of Providence for the discovery of murder. It is no irreverence to hold rather that a foreseeing Providence has made men for their self-protection acutely sensitive in noticing the minutest trifles where the life of a fellow-being is concerned. The incident, which would have been a trifle instantly forgotten had there not been death in the house, swelled into ominous and portentous importance. A phial, in which there had been a considerable quantity of sulphuric acid, was found nearly empty. To com-

plete the circle of evidence, the vest of a gown, worn by the murderess, was found concealed. It was speckled with the corrosions of the acid which the poor man had instantaneously spurted out ere she had ceased bending over him. There were like corrosive marks on the bed-clothes around. "I discovered," said Professor Trail, in his Medical Jurisprudence, "six-tenths of a grain of per-sulphuric acid in two small spots on a blanket, seven weeks after the crime." The woman was convicted and executed.

SPECTRAL AND DREAM TESTIMONY.

It is often remarked how very rarely narratives of supernatural events find their way into the proceedings of courts of justice, when it is remembered how large an amount of belief they still receive even among the educated classes. There is something uncongenial with the supernatural in such an ordeal. The delicate texture of its credibility shrinks from the broad light of open inquiry, and from the rough handling of men who are unscrupulously determined to get at the truth. The best ghost story that has got credence during the last ten years —and we are better at that work as at all others than our ancestors—would not stand the ordeal of a jury trial.*

* Surely among the strangest grounds of action, if it be not altogether a fictitious case, is that which forms the foundation of the tenth declamation, attributed to Quinctilian. A mother

It is true enough, that when certain superstitions were universal or supreme, the courts of justice were the chosen arena where they were developed in their most hideous and cruel shape. But when light has visited a people, it is concentrated in these tribunals. They will not give themselves to the powers of darkness where other and better powers reign. Rife as a superstition may be among the people, or even in a class of scientific heretics among the educated, the courts of justice—at least open public courts like ours—draw their lights from still higher intellectual sources, and refuse to be tainted by it. Thus the quackeries which, from time to time, sweep society and are forgotten till the antiquaries excavate them, pass and leave the administration of justice untainted, however much they may have had their influence on society or

mourning for the death of her son is visited by him in her dreams, and is comforted. "Nec jam nisi cum luce certa, fugatisque sideribus, invitus ille vanescebat ex oculis, multum resistens, sæpe respiciens, et qui se promitteret etiam proxima nocte venturum. Jam mœrori locus non erat—mulier filium nocte videbat, die sperabat." She communicated the happy news to her husband. But he rather dreaded than courted such a visit, for he had ill used the youth in life. Accordingly he applied to the magi to perform incantations on the tomb which would prevent the spirit from leaving the urn of ashes. The visits ceased, and the mother prosecuted her husband. It is observable, that throughout Quinctilian's writings there are frequent morbid traces of the effect of his own domestic bereavements.

science, and even on religion. Thus in a county where quack doctors make their thousands a year, a jury of tradesmen will bring in a verdict against the universal vegetable medicine. No one has yet been convicted on the evidence of clairvoyants who have seen the picking of pockets through mobs, or the forging of notes through closed shutters, though there could not be a more natural or fitting application of their art. There was more than a jest in the proposal that Madame Tussaud should bring an action for one shilling sterling against the clairvoyant who professed to have seen her wax-works, to try the question whether he *had* seen them, yea or nay? Could such a question be for some serious patrimonial object actually referred to a jury, the sifting it would receive would be of a totally different kind from that which satisfies the jury of male and female sages in a drawing-room.

The clarifying advantage of such an ordeal is in the distinctness with which different things are ascertained separately and without reference to each other. All our tales of the marvellous are conveyed to us complete. Some dreamer has dreamt a dream, and, lo! it has proved true, prefiguring some important event. It would never have been heard of but for the fulfilment. It has been well remarked, that as each human being dreams some

365 times a year, and generally about things in which he is immediately engaged—the dream taking the direction of some probable conclusion—it is not wonderful that there should be many coincidences between dreams and realities. The dreams veritably fulfilled in this manner would make no inconsiderable number when they are taken by themselves, and the unfulfilled remain unrecorded, so that the numbers cannot be compared with each other.

But there is a further misleading tendency in the propensity which so many of us have, even if we do not believe in the marvellous ourselves, to be the vehicles through which it is conveyed to other people. A marvellous coincidence is like a piece of wonderful news, a valuable conversational commodity, which the owner does not wish to cheapen by understating. Sometimes the narrator entertains a lurking belief which he is reluctant to allow; he is anxious to find some excuse for enjoying the excitement of believing; and he will give his faith to a supernatural event on far less evidence than he would require to prove some every-day matter which it is his interest to deny.

Generally you are told, at the commencement of the narrative, that the narrator has not in his constitution a particle of credulity—only, so and so happened. Perhaps some one dreamed that he saw

a dear and distant relation laid in a shroud. He remembers the exact time, and finds by his letters, received months afterwards, that at the very same moment that relation died. Some friend drew the curtains of his bed at night, all ghastly and pointing to an open wound; at that same moment it is subsequently ascertained that he committed suicide. The narrator draws no inference. These are facts, and he expects to be believed when he tells them, make of them what you will.

It is ungracious to say that you would have liked some evidence that the dreamer's vision was recorded and published before the realisation is known. We never hear of people waiting for the fulfilment of a dream, or the accomplishment of visionary vaticinations. The omen and the fulfilment are always conjoined. The sort of evidence in which they are so connected would not satisfy a court of justice. It would rend them in twain, and demand a rigid proof of each, looking hither and thither at the precedents and coincidents of the whole affair. Thus, to take an instance lately talked of in society,—we are told of a breakfast-party being plunged in solemn gloom by a lady who complains that her sleep has been disturbed by a pestilent drummer rub-a-dubbing round the house all night. She sees, from the sinister expression on every coun-

tenance, that she has said something she ought not to have said, but what it may be she cannot divine. Questions are asked when an opportunity comes, and it is put to the poor lady, " was she really ignorant of the sad legend of that ancient house, that just before a death in it a drummer is always heard parading the castle during the night?" A short time elapses, when the lord of the castle receives a notice of the death of a beloved member of his family.

It is useless to contradict or doubt such a story. But were there a judicial examination, there would be some other matters requiring settlement. Every instance of a death preceded by the drumming would of course be investigated. But further—evidence would be desired, not only that the drummer was spoken of immediately after the death occurred, but it would be necessary to show, on full and satisfactory evidence, that the fact of the drumming was known and spoken of *before* the death occurred. It might possibly be found, that sometimes it only occurred to some one after the death to remember that he had heard of the drumming, and counsel would know how to deal with questionable testimony like that. Finally, a return would be demanded of all occasions on which any one spoke of having heard the drummer, without a death following the rumour.

Possibly, too, learned gentlemen might think it as well to extend their inquiries into the habits of the neighbourhood, and would doubtless feel much interest in the history and habits of the members of musical associations and amateur bands.

Supernatural agencies will seldom condescend to be exposed to so rough and vulgar an ordeal. They prefer the pure, high-minded faith which is superior to such paltry realism. Thus, it must be confessed that the occasions on which such interesting matters find their way into the records of our courts, in later times at least, are extremely rare. This rarity may give them value. In any sense, whether that of the vulgar plodder, who is looking about for miserable facts, or in that of the loftier aspirant after the infinite, who demands the unlimited command over your reason, and will not condescend to prove anything, a collection of them would be valuable, and the meagre contribution which our Scottish records supply to it, is given in the following pages.

On the 3rd of June, 1754, Duncan Terig, *alias* Clerk, and Alexander Bain Macdonald, were tried at Edinburgh for the murder of Sergeant Arthur Davies, in the year 1749.* Davies was an Englishman, and was employed in the unpopular and unsafe duty of enforcing the Disarming Act in the

* The trial was edited, in a thin quarto volume for the use of the Bannatyne Club, by Sir Walter Scott, in 1831.

Highlands. He was stationed at the fortified barrack of Dubrach, near Braemar, with four men under his command. A post more wild and isolated, at a period when the passes of the Grampians were as little known in the Lowlands as those of Afghanistan, cannot easily be conceived. It was only by descending the river Dee, where there was then no road, that communication could be had with the rest of the world, without crossing great ridges of mountain. Though the springs that feed the Spey bubble up close to those which swell the Dee, they approach each other between three and four thousand feet above the level of the sea; and it is by crossing the great rocks, with their precipices and snow-fields, from which the accumulating rivulets fall down on either side in mighty torrents, that the adventurer can pass from the strath of the Dee to that of the Spey. On the other side is the great basin washed by the Tay and its tributaries, reached by the scarcely less wild pass of Glentilt, or by that which, further eastward, passes to the Isla, by the Spital of Glenshee. The name given to this lonely pass, which was the scene of the murder, is derived from its having once been the site of a station of the magnificent Knights Hospitallers. If these mountain passes sometimes perplex and frighten the tourist of the present day, they must have been still more formidable to Ser-

geant Davies, who found the whole district covered with that forest of gigantic pine-trees, of which a scattered remnant only stands to attest its ancient sylvan grandeur. Over this perilous ground the Englishman, little accustomed to such scenes in early life, had to pursue his dangerous duty. The small parties scattered here and there, throughout the disaffected districts, had no inconsiderable resemblance to the present Irish police, isolated in small bodies, and often separated by great mountain ranges from each other. In both instances, small knots of men have kept their position and inspired a wholesome awe over tracts inhabited by a hostile population, and have exemplified the power of system and discipline over chaotic numbers.

But the habits of Sergeant Davies seduced him into additional, and, as his friends often warned him, inexcusable risks. He was a sportsman—a being then almost peculiar to England. The Highlander stalked a deer or killed a salmon when he wanted food, or joined in some great driving of the tinchel, with festivity and vast assemblage; but the patient exercise of solitary sport in the forest or the stream was a propensity with which he could not sympathise; and Davies, sometimes setting out alone on such pursuits, or straying to a distance from his party, became a marked man.

He was repeatedly warned of his danger; but he appears to have been a man of unsuspicious, hardy, self-relying character. Steady, sober, and well-regulated, he seems to have acquired an amount of movable wealth rather remarkable as the possession of a non-commissioned officer. He had fifteen guineas and a half in gold, which he carried about in a green silk purse. He had a silver watch and two gold rings, one of them having the letters "D. H." engraved within, and this posie:

"When this you see,
Remember me."

He had large silver buckles on his shoes, a pair of knee buckles, twenty-four silver buttons, with silver lace and a button on his hat. To those who think of the condition of the non-commissioned officer at the present day, this wealth seems almost as marvellous as it must have appeared to the half-naked Highlanders of Dubrach. He was fond of displaying his wealth, even when any onlookers it might attract could only be of a suspicious or dangerous kind. "He made no secret," said his widow, "of his having the gold above-mentioned; but, upon the many different occasions he had to pay and receive money, he used to take out his purse and show the gold; and that even when he was playing with children, he would frequently take out his purse and rattle it

for their diversion, from which it was generally known to all the neighbourhood that the sergeant was worth money, and carried it about him." He used to say, when taxed with the imprudence of wandering about alone in a hostile country with so much superfluous wealth on his person, that with his weapons and ammunition he feared no man. In fact, he courted his doom. There is not a less predatory race in any country than the Highlanders of the present day; but, in the time of the disarming, robbery was their profession, and the plunder of the enemy and Saxon a confirmed national principle.

There was another small party at Glenshee, and it was the practice for the two to meet at a spot halfway between their stations, at stated intervals, to make mutual arrangements for the service they were employed in. On the 28th of September, 1749, the party from Dubrach proceeded to the spot, and returned without their sergeant, stating that they had not seen him—that they believed he was pursuing his sport, and that they had heard him fire a shot. He reached the place of meeting alone, after his own men had left it, and he found there the Glenshee party, whose sergeant took an opportunity of admonishing him on his rashness. "He thought it was very unreasonable in him to venture upon

the hill by himself; as for *his* part, he was not without fear even when he had his party of four men along with him." The sergeant never appeared again alive among his friends; and the poor widow, in her testimony, said:

"From the second day after the sergeant and party went from Dubrach as aforesaid, when the witness found he did not return, she did believe, and does believe at this day, that he was murdered; for that he and she lived together in as great amity and love as any couple could do that ever were married, and that he never was in use to stay away a night from her; and that it was not possible he could be under any temptation to desert, as he was much esteemed and beloved by all his officers, and had good reason to believe he would be promoted to the rank of sergeant-major on the first vacancy."

Nearly a year had elapsed after the sergeant was thus missed, when a certain Donald Farquharson, in Glenshee, was told that his neighbour, Alexander Macpherson, "*alias* Macgillas," had been making repeated and very anxious inquiries after him, and had left a message beseeching him to call at his father's shieling. Farquharson did so; and the communication then made to him had better be given in the words in which his testimony is recorded:

"Macpherson told him that he was greatly troubled with an apparition—the ghost of the deceased Sergeant Davies—who insisted that he should bury his bones; and that, he having declined to bury them, the ghost insisted that he should apply to the witness, saying that he was sure Donald Farquharson would help to bury his bones. That the witness could not believe that he had seen such an apparition; upon which Macpherson desired him to go along with him, and he would show him the bones, and the place where he had found them. That the witness went along with him, which he did the rather that he thought it might possibly be true, and if it was, he did not know but the apparition might trouble himself."

He at last agreed, however, to accompany Macpherson to the spot. It was a deserted peat moss, about half a mile from the path which had been used by the patrolling parties. The witness thus described what he found:

"The spot where the body was lying had the surface of the ground entire, and no peats had been casten there: that the flesh had been mostly consumed from the bones, and the head separated from the body, and the hair lying by itself, separated from the head—that the hair was of the same colour with the sergeant's hair, a mouse colour. That they also

found some blue cloth, all torn in rags, some of it under the body, and some of it lying by the body; and it appeared to the witness to be of the same kind of cloth with that of the blue coat which the sergeant commonly wore when he went a-shooting; that the bones were not all lying together, but were scattered asunder, particularly some of the joints of his arms and one of his legs; and that some of them were scattered at the distance of several yards. That Macpherson told him, that when he first found the bones, which was about eight days before, that they were lying further off, under a bank, and he drew them out with his staff."

Macpherson corroborated the story of the ghostly visitant, but in a manner which will be afterwards commented on. He said that Farquharson doubted his information about the body lying on the hill, until Macpherson told him that he had been visited by a spectre, as of a man clad in blue, which turned out to be the ghost of Sergeant Davies. It is surely uncommon to mistake a disembodied spirit for a neighbour and friend in the flesh, and only to be convinced of the error by specific information afforded by the ghost. Such, however, was the position in which this witness stated that he found himself. The vision said to him, "I am Sergeant Davies." The narrative continues thus:

"Before he told him so, the witness had taken the said vision, at first appearance, to be a real living man, a brother of Donald Farquharson's. That the witness rose from his bed and followed him to the door, and then it was, as has been told, that he said he was Sergeant Davies, who had been killed on the hill of Christie about near a year before, and desired the witness to go to the place he pointed at, where he would find his bones, and that he might go to Donald Farquharson, and take his assistance to the burying of him. That upon his giving Donald Farquharson this information, Donald went along with him, and finding the bones as he informed Donald, and having then buried them with the help of a spade which he had alongst with him. And for putting what is above deposed upon out of doubt, depones that the above vision was the occasion of his going by himself to see the dead body, and which he did before he either spoke to John Growar, Daldownie, or any other body. And further depones, that while he was in bed another night, after he had first seen the body by himself, but had not buried it, the vision again appeared, naked, and minded him to bury the body; and after that he spoke to the other folks above-mentioned, and at last complied and buried the bones above-mentioned. That upon the vision's

first appearance to the witness in his bed, and after going out of the door, and being told by it he was Sergeant Davies, the witness asked him who it was that had murdered him, to which it made this answer, that if the witness had not asked him, he might have told him; but as he had asked him, he said he either could not, or would not, but which of the two expressions the witness cannot say; but at the second time the vision made its appearance to him, the witness renewed the same question, and then the vision answered that it was the two men now in the panel that had murdered him; and being further interrogated in what manner, the vision disappeared from him first and last? Depones, that after the short interviews above-mentioned, the vision at both times disappeared, and vanished out of his sight in the twinkling of an eye; and that in describing the panels, by the vision above-mentioned, as his murderers, his words were 'Duncan Clerk and Alexander M'Donald.' Depones that the conversation betwixt the witness and the vision was in the Irish language."

Sir Walter Scott was able to preserve, traditionally, an incident of the effect of the ghost story, which the record does not convey. M'Pherson was asked by Mr. M'Intosh, the counsel for the prisoners, what language the ghost spoke. The

witness said it was as good Gaelic as ever he heard in Lochaber. "Pretty well," answered Mr. M'Intosh, "for the ghost of an English sergeant." Sir Walter justly remarks that "this was no sound jest, for there was nothing more ridiculous in a ghost speaking a language which he did not understand when in the body, than there was in his appearing at all." It is in such matters, of course, as in St. Denis's journey with his head, *le premier pas qui coûte.*

The whole affair of the ghost, however, so disorganised the intellectual digestion of a jury of David Hume's fellow-citizens, that they rejected the accompanying mass of sound substantial testimony, and acquitted the accused in the face of very strong evidence. The whole neighbourhood knew from the beginning who had been the murderers. Clerk and M'Donald became suddenly rich—at least in comparison with their preceding poverty—and a damsel to whom Clerk was subsequently married, was in possession of some rings, and other valuable trinkets, which had, beyond a doubt, belonged to the sergeant. In bickerings and disputes with their neighbours, the murder was frequently "cast up" to them. The witness M'Pherson was on the hill with Clerk, when they saw a young cow. "Shoot it," said Clerk. The witness refused, adding, "That it was such thoughts as these were in his head when

he murdered Sergeant Davies, upon which some angry expressions happened between Duncan and the witness; but when the witness insisted upon it that he could not deny the murder, Duncan fell calm, and desired the witness to say nothing of that matter, and that he would be a brother to him, and give him everything he stood in need of, and particularly would help him to stock a farm when he took one." On another occasion, when reproached with the deed, he said, "What can you say of an unfortunate man?" meaning how can you be so heartless as to trouble one about an affair which may get him into difficulty. But there was distinct evidence by an eye-witness. One Angus Cameron, who, having gone to reside in the distant district of Ranoch, could speak freely, said:

"That about an hour and a half before sunset, on the 28th of September, he being on the hill of Galcharn, on the side thereof, saw a man in a blue coat, with a gun in his hand, with a hat which had a white edging about it, he knows not whether it was silver or not; and saw other two men, one of whom was the panel, Duncan Clerk, coming up the hill towards the first-mentioned man, who was distant from him, the witness, about a gunshot, upon or near the top of a hill opposite to him, the name of which he does not know, he being a stranger in

that country. * * * That he saw Duncan Clerk and his companion, whom he did not nor does not know, meet with the man clad in blue, as aforesaid; and after they had stood for some time together, he saw Duncan Clerk strike at the man in blue, as he thought with his naked hand only, upon the breast; but upon the stroke he heard the man struck cry out, and clap his hand upon the place struck, turn about, and go off. That the panel Duncan Clerk and the other man stood still for a little, and then followed after the man in blue, and he saw him, the said Duncan and the other man, each of whom had a gun, fire at the man in blue. That the two shots were very near one another, and immediately upon them the man in blue fell." He then explained the circumstances under which he had been in hiding on the hill, and the rifling of the body.

In a historical point of view the evidence is confirmed by a statement of Sir Walter Scott, that both the counsel and agent for the prisoners were convinced of their guilt.

The story of the ghost is easily accounted for. The finders of the bones had made up their minds to give their testimony so that the murderers should be brought to justice. For such an unneighbourly and unclannish action they must have some rational excuse. Love of justice, a respect for the laws,

would be received with just scorn as a paltry subterfuge—the desire of vengeance would be rational, but would not look well. The summons of a restless ghost would afford a just and appreciable motive, founded on rationality and good sense; and accordingly this plan was adopted for the justification of the informer in the eyes of the country.

But it does not appear that Macpherson intended to give the Court of Justiciary the benefit of this story. He had there mentioned the discovery of the sergeant's remains as a simple fact, without any allusion to the ghost. It was alluded to, however, by the preceding witness, Farquharson. It appears to have been from this hint that Macpherson was questioned on the point, and he required to stand by the story, or retract the vindication of his unhandsome conduct. His evidence commences in these downright terms: "In summer, one thousand seven hundred and fifty, he found, lying in a moss-bank, on the hill of Christie, a human body—at least, the bones of a human body—of which the flesh was mostly consumed; and he believed it to be the body of Sergeant Davies, because it was reported in the country that he had been murdered on that hill the year before. That when he first found this body, there was a bit of blue cloth upon it, pretty entire, which he took to be what is called English cloth," &c.

The continuation of Macpherson's evidence sufficiently lays bare his motives for getting up the ghost story. "For some days he was in doubt what to do, but meeting with John Growar in the moss, he told John what he had found, and John bade him tell nothing of it, otherwise he would complain of the witness to John Shaw of Daldownie; upon which the witness resolved to prevent Growar's complaint, and go and tell Daldownie of it himself; and which, having accordingly done, Daldownie desired him to conceal the matter, and go and bury the body privately, as it would not be carried to a kirk unkent, and that the same might hurt the country, being under the suspicion of being a rebel country." The eye-witness of the deed said, that when he spoke of it to the neighbours, they "advised him to say nothing of it, as it might get ill-will to himself, and bring trouble on the country." Finally, the ghost-seer was in the employment of Clerk, one of the accused; and his testimony, without some overwhelming motive, would have been deemed a deed of double baseness.

Sir Walter Scott, in his curious introduction to this trial, is at a loss to find any other analogous instances of spectral evidence reported in the proceedings of criminal trials. He mentions the case of Auguier, in the *causes célèbres*. This man was

prosecuted for repayment of a loan of 20,000 francs to Mirabel, who had no better means of stating how he got possession of so much money, than that a ghost introduced him to a hidden treasure. The proceedings were ingeniously quashed, on the ground that the treasure, if genuine, would have been the property of the crown. With a more vague reference, Sir Walter says:

"It is a popular story, that an evidence for the crown began to tell the substance of an alleged conversation with the ghost of a murdered man, in which he laid his death to the accused person at the bar. 'Stop,' said the judge, with becoming gravity; 'this will not do. The evidence of the ghost is excellent. None can speak with a clearer cause of knowledge to anything which befel him during life. But he must be sworn in usual form. Call the ghost in open court, and, if he appears, the jury and I will give all weight to his evidence; but in case he does not come forward, he cannot be heard, as now proposed, through the medium of a third party.'"

Sir Walter also alludes, incidentally and briefly, to the only known record of a criminal trial in England, where the proceedings of a ghost come under consideration, if such a term can apply where the supernatural visitor received no more official

notice than a contemptuous allusion from the bench. It occurred in the case of the trials of Harrison and Cole, in 1692.* A certain Dr. Clench, a respectable medical man in London, had excited the indignation of some people by his cautious dealings about a loan transaction, and a security for his money over house property. He was sitting, one evening, by the fire in his nightgown and slippers, when a hackney coachman came hastily to tell him that he had two gentlemen in his coach below, who desired the doctor's assistance to visit a patient in imminent danger. The doctor entered the coach. The coachman was ordered about in various directions, and sent on one message after another. At one place he was sent for an individual named Hunt, a surgeon, and came back saying he could not find him. The criminals had not made up their mind to play their final trick, or could not safely accomplish it; otherwise he would not have found them. They next drove to Leadenhall-market, when they gave the coachman 3s. 6d., and bade him buy a couple of fowls from a stall kept by one Hunt. The coachman made fruitless inquiries after Hunt, but could find no such person's stall. He bought the fowls, however, and returned. When he looked into the coach, he saw only one

* State Trials, xii., 834.

man there, prostrate, with his head on the cushion. The coachman cried out, "Hollo, master!" and shook him, believing him to be drunk; but he found him, at last, to be dead. He had been choked by pressure on the windpipe, as the indictment expresses it, "with a pocket-handerchief, with a coal being put in the same, of the value of twopence, about the neck of him the said Andrew Clench."

One of the murderers—Harrison—was identified in a curious manner. A lady, who had seen the coach stop near Dr. Clench's door, and the driver sent on his mission, took it in her head that the fare would make off—"I think they call it bilking," said the counsel for the prosecution; and, being curious to see such an operation, she watched the men narrowly, and, by the aid of one of the few street lamps of that day, became acquainted with Harrison's features.

The other man could not be found; but a Mrs. Milward lodged an incoherent-looking information against a man named Cole, on the ground that her deceased husband had confessed to her, on his death-bed, that he and Cole had committed the murder. At his trial, she could offer nothing but such hear-say evidence; and the following fragment of her examination contains the slight and fugitive reference made to the ghost:

"*Justice Dolben*—Was there no quarrel between Cole and you about your goods?

"*Mrs. Milward*—No, my lord. I had no quarrel with him.

"*Justice Dolben*—Because you did not do it sooner, have you not been troubled with your husband's ghost? Tell the jury the story; we have heard on't; but I am afraid they will laugh at you.

"*Mrs. Milward*—That was very true, my lord.

"*Justice Dolben*—Well, if you have anything else to say that is material, speak; otherwise, my brother and I are of opinion, that what you have already offered is no evidence."

The invitation to Mrs. Milward to tell the ghost-story, was made in banter, and she had no opportunity of getting it out. Cole was acquitted.

In Mr. Montgomery Martin's work on the "British Colonies,"* there is an anecdote which it is, certainly, a little startling to find gravely told in a statistical work passing through the British press in the latter half of the nineteenth century. It is offered as an instance of the "keen sight and sense possessed by the Australian savages." A respectable settler had disappeared from his farm near the Great Western road to Bathurst. When

* Div., v., 5.

his absence was made matter of inquiry, his overseer, a convict on ticket of leave, circulated a report that his master had gone to England, leaving him in charge of the settlement. This created some surprise; but, after the lapse of a few weeks, the matter was forgotten, and the convict went on with his duties unquestioned. But behold what happened to disturb their routine:

"One Saturday night, a neighbouring settler, returning from market with his horse and cart, on coming to the paling which separated the missing farmer's land from the high road, thought he saw the very man sitting on the rail or fence. Instantly stopping, he hailed his long-absent neighbour, inquired where he had been, and when he had returned home. Receiving no answer, he dismounted from the cart, and went towards the fence; upon which his neighbour, as he plainly appeared to be, quitted the fence, and crossed the field towards a pond in the direction of the house which he was supposed to have deserted."

The farmer called for his friend next morning. He found that he had not returned; and when he told his story of the night, the overseer laughed at him; said the man he thought he saw must be by that time near the coast of England, and hinted that the worthy farmer had certainly been overtaken

by spirits of another and more vulgar kind. The farmer, however, was dissatisfied. He thought there were symptoms of foul play, and he laid the matter before a neighbouring justice of peace. Some of the mounted police were sent to make inquiries, and they were accompanied by a native black constable, as being a person more competent than European policemen to deal with such questions. The native was taken to the paling where the absent farmer had been seen.

"The spot was pointed out to the black, without showing him the direction which the lost person apparently took after quitting the fence. On close inspection, a part of the upper rail was observed to be discoloured. It was scraped with a knife by the black, who smelt and tasted it. Immediately after, he crossed the fence, and took a straight direction for the pond near the cottage. On its surface was a scum, which he took up with a leaf, and after tasting and smelling it, declared it to be '*white man's fat.*' Several times, somewhat after the manner of a bloodhound, he coursed round the lake. At last he darted into the neighbouring thicket, and halted at a place strewed over with loose and decayed brushwood. On removing this, he thrust down the ramrod of his musket into the earth, smelt at it, and then desired the spectators to dig

there. Instantly spades were brought from the cottage; the remains of the settler were found and recognised; the skull was fractured, and the body presented every indication of having been some time immersed in water. The overseer was committed to gaol, and tried for murder.

"The foregoing circumstantial evidence formed the main proofs. He was found guilty, sentenced to death, and proceeded to the scaffold protesting his innocence. Here, however, his hardihood forsook him; he acknowledged the murder of his late master, declaring that he came behind him when he was crossing the identical rail on which the farmer fancied he saw the deceased, and with one blow on the head killed him, dragged the body to the pond and threw it in, but after some days took it out again and buried it where it was found."

Mr. Martin says, in concluding his narrative: "The first indication to the farmer of the spot on which the murder was committed, is to me the most singular interposition of Providence that ever came within the limit of my own immediate observation." He states that the accuracy of his narrative will be attested "by Saxe Bannister, then his Majesty's attorney-general for the colony, and by other gentlemen." It is a prevailing feature, however, of such narratives, that they are always associated

with remote times or places; that they shun assizes, or the Central Criminal Court, where they would receive a close and full examination; and we have nothing for it but to believe everything, or doubt the word of very respectable gentlemen.

The law courts of the United States of America would not be expected to prove a suitable atmosphere for a disembodied spirit. If the report of a case, however, which was decided in Maryland, in 1799, be not a hoax,* testimony as to the appearance of an actual ghost was there given, and solemnly received. The case is that of "James, Fanny, and Thomas Harris, devisees of Thomas Harris, *versus* Mary Harris, administratrix of James Harris." It is unnecessary to enter into the technicalities and merits of the case, further than to say that the deceased Thomas Harris left a brother and natural children. He made a settlement, intending to leave his whole property to these children. It was found, however, that it was only effectual in bequeathing to them his movable or personal estate, and that his brother remained the heir of some landed property possessed by the deceased. This brother, after showing an intention to take

* It was printed in a periodical work called the Opera Glass, in 1827, and thence transferred to "Notices respecting the Bannatyne Club," privately printed in 1836, p. 191.

advantage of his position, changed his mind, and before his death sold the estate, intending to give the proceeds to the children. This change was believed to be occasioned by the appearance of his brother's ghost to a common friend; and the manifestation of the ghost was part of the evidence that James Harris, before his decease, had destined the fund for his brother's children.

The person who saw the ghost was named Briggs, —a man of good repute and undoubted courage, who had been a soldier in the revolutionary war.

"He was riding near the place where Thomas Harris were buried, on a horse formerly belonging to Thomas Harris. After crossing a small branch, his horse began to walk on very fast; it was between the hours of eight and nine o'clock in the morning; he was alone—it was a clear day; he entered a lane adjoining to the field where Thomas Harris was buried; his horse suddenly wheeled in a panel of the fence, looked over the fence into the field where Thomas Harris was buried, towards the graveyard, and neighed very loud. Witness then saw Thomas Harris coming towards him, in the same apparel as he had last seen him in his lifetime. He had on a sky-blue coat; but before he came to the fence he varied to the right, and vanished. His horse immediately took the road. Thomas Harris came within

two yards of the fence to him; he did not see his features, nor speak to him. He was acquainted with Thomas Harris when a boy, and there had always been a great intimacy between them. He thinks the horse knew Thomas Harris, because of his neighing, pricking up his ears, and looking over the fence. About the first of June following, he was ploughing in his own field, about three miles from where Thomas Harris was buried, about dusk. Thomas Harris came alongside of him, and walked with him about 200 yards; he was dressed as when first seen."

It is clear that the ghost, which appeared in a sky-blue coat, must have had a very bad taste, and a miserable appreciation of the picturesque and appropriate. It is evident, too, that Thomas Harris must have been a formidable bore when he was in the flesh, for his ghost becomes eminently tiresome, and it would be cruelty to inflict on the reader an account of his pertinacious reappearances. One of them shows, too, that he must have been a man of bad temper and quarrelsome habits, insomuch as to forget his true functions as a spirit, and summon the arm of the flesh to his aid.

"Sometime after," continues Mr. Briggs, "when in bed, and a great fire light in the room, he saw a shadow on the wall; at the same time he felt a great weight upon him. Some time after, when in bed

and asleep, he felt a stroke between his eyes, which blackened them both. His wife was in bed with him, and two young men were in the room. The blow awakened him, and all in the room were asleep. Is certain no person in the room struck him. The blow swelled his nose."

These visitations were repeated to James Harris, and produced on him the influence already alluded to. The ghost, like Banquo's, was visible to one person only, though many were present at its visitations, when Briggs was seen in earnest conversation with some person or persons, not only unknown, but unseen. This case would, perhaps, not be considered an uncommon one, were it not thus solemnly dealt with in a court of justice. Briggs had been present at the death of Thomas Harris, and was haunted long afterwards by his dying groan. This, along with his spectral guest, "preyed upon his mind so as to affect his health." He had, in fact, become a proper subject for optical delusions.

It is difficult to detect, in the Scottish criminal records, any trace of prophetic dreams, the second-sight, or the other superstitions which were rife in Scotland, and might be deemed peculiarly valuable as instruments for the revelation of crime. Their absence must be attributed to that reluctance which the spiritual world has ever shown to appear before

a jury; but, making all allowances, it is wonderful that the traces of any allusion to them should be so faint and scanty as they are. Such revelations as those published by Fraser Martin and Aubrey would be extremely useful in the detection of crime.* But we do not find in evidence such forewarnings as accompany the uncouth names of Evander Macmhaoldonich, or Donald Macinstalker, who, in anticipation of a domestic tragedy, "was frequently alarming the people of the family, that murder or manslaughter was soon to happen therein." It is indeed unfortunate, that when any of these instances are so specific that one could trace them into the criminal records, they are still always referred to distant places. Thus "Mr. Rory Macleod, son to the deceased Mr. Norman Macleod, sometime minister of Kilmuir," when he gives such an instance of the second-sight as must have necessarily connected itself with judicial proceedings, carries it across the Atlantic, though, in other instances of second-sight, his own family is fertile enough. He tells us how, in the year 1745, Jonathan Easton, of Newport, in Rhode Island, left his housekeeper in charge of a store of rum. There was an Indian girl

* See a Treatise on the Second-Sight, Dreams, and Apparitions, with several instances sufficiently attested, and an Appendix, &c. Edinburgh, 1763.

who wanted some of the liquor, and, being refused, she murdered the housekeeper, and threw her into a draw-well. After his return home, "as Mr. Easton was in bed, he saw an apparition, between sleep and awake, informing him the Indian girl had murdered his servant, and thrown her into the draw-well, of which he at first did not take notice; but the scene being thrice repeated, he considered there might be something in it; whereupon he called one of the town council, and both going to the well, found the body of the girl, and thereupon seized the Indian maid, who immediately confessed the murder, for which she was executed."*

Among the multitudinous superstitious stories which the historian Wodrow preserved in his private memorandum-book, there are some which, if they were seriously believed, should have found their way into the records of the Court of Justiciary.†

* Treatise on the Second-Sight, p. 90.

† Most of Wodrow's supernatural events, like the miracles in the Vitæ Sanctorum, are friendly to his own Church, and very destructive to its opponents. Some of the incidents are extremely picturesque. The following account of the fate of an apostate, might be supposed to have suggested the story of Alp, in Byron's Siege of Corinth, had there been any probability of the poet having read the cramp MS., in which alone it was to be found: "It's said, that some days before his death, as he was walking in the links, about the twilight, at a pretty distance from the town, he espyed, as it wer, a woman all in white, standing not farr from him, who immediately disappeared; and

For instance, there is the following account of the foreshadowing of a murder. The seer is supposed to be enjoying the hospitalities of a country mansion:

"At supper time, there being some other stranger at table, the gentleman of the house entertained him very kindly. They were all very cheery, till, in a little time, that gentleman who was the guest began to be very pensive, which was observed in his countenance, and by his silence; so that the whole company turned all upon him, and challenged him why he was turned so grave and sullen, being so good company before? He answered, nothing ailed him, and began to force himself to a feigned cheerfulness, but found, at last, it would not do. So, rising from the table, and touching another stranger gentleman in the company, in order to speak with him aside, they went both to the door, and he addresses him thus: 'Oh, sir, I cannot conceal any longer the reason of my present discomposure, which is this. I see a dirk sticking in

he, coming up presently to the place, saw nae person there, though the links be very plain: only, casting his eye on the place where shee stood, he saw tuo words drawn, or written, as it had been with a staff, upon the sand, 'sentenced and condemned!' Upon which he came home pensive and melancholy, and in a litle sickens, and dyes. What to make of this, or what truth is in it, I cannot tell; only, I had it from a minister, who lives nigh to Montrose."—Wodrow's Analecta, i., 101-102.

the breast of this gentleman of this house, and I am persuaded he will be murdered ane way or other this night, except means be taken to prevent it.' "*

All necessary precautions were taken to avoid the catastrophe; but the man was foredoomed. His fate made him step out of his house in the middle of the night, and a tinker, or gipsy, who owed him an old grudge, and had long lain in wait for his life, stabbed him.

Though such things were believed by learned divines, and the community in general, the author only remembers one instance in which a prophetic dream appears in connection with a criminal trial; and that occurred so lately as the year 1831. In that year, a young Highlander was tried and executed for the robbery and murder of a pedlar, in the wilds of Assynt, in Ross-shire. A certain Kenneth Fraser, a village tailor, pointed out the place where the plunder was hidden, and stoutly maintained that it had been revealed to him in a dream. Like that of Sergeant Davies, the revelation was in Gaelic—a favourite language in the spiritual world. The testimony is given thus: "I was at home when I had the dream, in the month of February. It was said to me in my sleep, by a voice like a man's, that the pack was lying in such

* Analecta, i., 100.

a place. I got a sight of the place, just as if I had been awake. I never saw the place before. The voice said, in Gaelic: 'The pack of the merchant is lying in a cairn of stones, in a hole near their house.' The voice did not name the Macleods; but he got a sight of the ground, fronting the south, with the sun shining on it, and a burn running beneath Macleod's house."*

The jury did not, in this case, reject satisfactory evidence of the crime because it was mixed up with this silly story. The clergyman of the parish thought fit to "improve" the whole story into a "voice from the borders of eternity," in which, not content with a solemn commentary on the tailor's dream, he adds to the marvellous history, by relating an equally prophetic one which visited the murderer. When in custody for his crime, he dreamed that he was in a strange burial-ground, where he saw his father digging a grave, with a coffin beside it. The father bade him lie down in it; but, appearing to take compassion on him, released him, saying: "Well, Hugh, go for this time, until about a year after this; but in much about a year, remember your coffin will meet you." The account we have of the fulfilment is this: "Macleod imagined that this dream foretold his acquittal at the circuit at

* Aberdeen Magazine, ii., 94.

Inverness, and he left Dornoch in high expectations. Strange to say, at that circuit his trial was postponed, for want of a sufficient number of jurors; and when the next circuit came, it was again adjourned, for want of a material witness, and a whole twelvemonth and some days elapsed before he was condemned to death."*

* Black Calendar of Aberdeen, p. 61. Some other incidents of this curious trial have been noticed in an interesting article in the Quarterly Review for July, 1851.

PROCEEDINGS AGAINST THE ROMAN CATHOLICS.

FOR reasons which it is unnecessary to examine on this occasion, the establishment of the Reformation in Scotland was an extremely rapid operation. On the morning of the 23rd of August, 1560, the Romish hierarchy was nominally in full existence; ere eve, it had become penal to perform its rites. In a convention, or parliament assembled without royal authority, the act, establishing the reformed polity, was passed as a trophy of victory over the beaten cause of the Catholics, and their head, the Queen-mother, Mary of Guise. It was provided by that act, "That no manner of person or persons say mass, nor yet hear mass, nor be present thereat, under pain of confiscation of all their goods, moveable and immoveable, and punishing of their bodies at the discretion of the magistrate within whose

jurisdiction such persons happen to be apprehended, for the first fault; banishment furth of the realm for the second fault; and justifying to the death for the third fault." The adhesion of the clergy was rapidly transferred to the new order; and a scholar of local celebrity, Ninean Winzet, who stuck to the old faith, and held a stout controversy with Knox, said he marvelled within himself how Christian men, who had been for so many years teaching and preaching what they professed to hold as the truth, "in one month's space, or thereby, should be changed so proudly in so many high matters;" and informs us that "at Pasche, and certain Sundays after, they teached with great appearing zeal, and ministered the sacraments unto us in the Catholic manner; and by Whit-Sunday they change their standard to our plain contrare."*

* Winzet's Buik of Fourscoire Questionis, touching Doctrine, Ordour, and Maneris. It is not easy to modernize Winzet's quaint old vernacular, as may be inferred from the following passage, in which he charges Knox with modern affectations and innovations in style. "Gif ze throw curiositie of novationis, hes forzet our auld plane Scottis, quhilk zour mother lerit zou, in tymes cuming I sall wryte to you my mynd in latin, for I am nocht acquyntit with zour southeroun." Knox's own style is certainly more readable; and thus it would seem that, like Luther, he was entitled to the merit of having reformed the language as well as the faith of his country.

Winzet himself was a sufferer from the Reformation, but not in a sufficiently conspicuous or tragic manner to demand special notice. He was deprived by the Reformers of his office of

It has been frequently remarked, that the early acts of the Scottish parliament were seldom enforced in all their severity. They are not to be confounded with the English statutes, which the common-law judges were held bound to put in force, without question, as a subordinate officer obeys the orders of his military commander. These Scottish acts were passed in a much less solemn and formal manner, and are often to be held rather as a cry of triumph by a victorious party, than a law which is to be enforced. Thus, the statute-book, with its punishment of death for repeated celebration of the mass, exhibits an intolerance which the criminal records do not second, save in one remarkable instance.

The earliest trial for an offence against the Reformation, appears to be that of Master William Balfour, indweller in Leith, indicted on the 24th of

Master of the Grammar School of Linlithgow, or, as he expresses it, "I, for denying only to subscriue yair phantasie and factioun of faith, wes expellit and schott out of yat my Kyndly town, and fra my tender frendis yair." He prepared for publication a tract, called "The last blast of the trompet of Godis worde aganis the usurpit auctoritie of Johne Knox," which of course would not be allowed publicity in a country where Knox was supreme. While it was at press, the copies were seized, and the printer was fined and imprisoned. Five leaves of the book, still extant in the library of the University of Edinburgh, are a valuable relic. There is a learned Memoir of Winzet in Irving's Lives of Scottish Writers, i., 98.

December, 1561, for rioting to restore the Popish religion. In this, and other trials which follow it, the difficulty of making poor Queen Mary prosecute her subjects for following her own religion, was ingeniously obviated. It was set forth, as her majesty's pleasure, that nothing should be done to disturb the religion which was found publicly and universally established on her arrival in her kingdom. One of the charges against Balfour was for making "a wadset with the Laird of Waters" that the Reformed religion would be utterly abolished in two years. A wadset is an old form of mortgage on land, and it appears, in this case, to have been the instrument of a sort of bet. There was a more serious charge, that "he, accompanied by certain wicked persons, sowers of discord, and raisers of tumult, on set purpose came to the parish kirk of Edinburgh, called St. Giles's kirk, where John Carnys was examining the common people of the burgh before the last communion ministrate therein, according to the order taken and appointed by the minister, elders, and deacons of the said kirk. And the said John being demanding of a poor woman "if she had any hope of salvation by her own good works," the said Master William, in despiteful manner and with thrawen countenance—having nothing to do at that time in the said kirk

but to trouble the said examination—said to the said John these words: "Thou demands of that woman the thing whilk thou, nor non of thy opinion, allows nor keeps;" and after gentle admonition made to him by the said John, he said to him also these words: "Thou art ane very knave, and thy doctrine is very false, as all your doctrine and teaching is;" and therewith laid his hand upon his weapon, provoking battle, doing therethrough that was in him to have raised tumult among the inhabitants of this burgh."* The punishment awarded against this zealous and too keen disputant is not mentioned.

On the 19th of May, 1563, a large number of persons were brought to trial for a violent attempt to restore Popery in Ayrshire and the adjacent western counties. It was said that they came to certain parish churches to aid the celebration of the abolished superstition, to the number of two hundred persons, with jacks, spears, guns, and other weapons. The punishment was not so flagrantly severe as that usually inflicted by a victorious belligerent party. It was levelled only against the leaders, and consisted in imprisonment during pleasure.

Along with the rioters, some ecclesiastics, with

* Pitcairn, i., 417.

the Archbishop of St. Andrew's at their head, were tried. They "came to will," as it is termed, confessed to acts which made them amenable to the law, and negotiated a sort of compromise, finding security to enter themselves in ward. This was something like the French practice of banishing to an estate, province, or particular dwelling-place. On the whole, whatever the letter of the law might say, the treatment of the beaten by the victorious party was characterised by good-nature. It must be remembered, however, that the queen of the realm, so far as she was permitted, adopted the rites of the worship which had so suddenly become criminal, and that the preponderance of Protestantism was more apparent than real. The lords of the congregation—especially those who had possessed themselves of great landed estates from the temporalities of the Church—were ill at ease, and ever under an apprehension that the balance might turn against them.

Though the punishments were lenient, however, this trial is remarkable, from its showing how quickly the Roman Catholic priesthood were driven to and adopted the humblest spots for the celebration of their worship, when they could no longer command the cathedral or the abbey church. The party, with the archbishop at their head, were

charged with having performed clerical functions in Paisley, where the remains of the magnificent and highly-decorated abbey church attest the former splendour of the haughty Clunecensian monks. There they "openly, publicly, and plainly, took auricular confession of the said persons, in the said kirk-toun, kirk-yard, chambers, barns, middens, and killogies [kilns] thereof; and therethrow making alteration and innovation in the state of religion, whilk our sovereign lady found publicly standing, and professed at her majesty's arrival within this realm foresaid, ministering and abusing irreverently and indecently the sacraments of holy kirk, namely the sacraments of the body and blood of our Lord Jesus, otherwise and after another order nor the public and general order of this realm."*

The archbishop engaged in this affair was John Hamilton, a natural son of the Earl of Arran, whose history cuts no mean figure in the politics of that wild age. The Protestant party owed him little gratitude, for he had been instrumental in the death of the protomartyr, Robert Mill, and was said to have provided the rope with which he was bound to the stake—a contribution which no more fitting hand would make. His biographers mention

* Pitcairn, i., 427.

his imprisonment in Edinburgh Castle for his offence against the Reformation statutes, and his release at the earnest intercession of Queen Mary. His memory was afterwards suspiciously connected with the great tragedy which darkens the history of his unhappy sovereign. He was specially invested with the consistorial authority, over marriages and other kindred matters, which had been removed from the clergy; and it has been shown by historical critics that this was done to enable him to dissolve the marriage of the notorious Bothwell, in order that Queen Mary might be allied to her husband's murderer. In the course of the conflicts which followed, the archbishop was caught at the capture of Dumbarton Castle. Several accusations were brought against him, and among them was a connivance at the murder of Darnley. How far it was true that his severance of Bothwell's marriage tie was the completion of a transaction begun in the death of his rival, the world had no opportunity of ascertaining. It was found unnecessary to go into the charges, or take the trouble of proving his guilt; for there stood against him an attainder by parliament, which, passed in a moment of party triumph and hot excitement, condemned him to death, after the manner of parliament, without evidence. On this authority he was hanged, amidst

the exultation and ribaldry of those who hated him, his party, and his religion.* The punishment inflicted on Hamilton for the exercise of his religious rites, was, as we have seen, a slight one. But, in estimating the usage which the followers of the old faith received at the hands of their Protestant opponents, we are warned by such events as this execution not to forget that there were so many other means of striking the supporters of Catholicism and the queen, that it was unnecessary to enter on tedious inquiries about religion, faith, and rituals.

It scarcely comes within the scope of this account, which refers to criminal proceedings for the exercise of the Roman Catholic religion, to enter on the conflicts with the Catholic lords in the reign of King James; but though the discussion has much more of a political than a religious character, the tenor of the proceedings against the Roman Catholics will be better understood by a personal reference to them. While the denunciatory statute, and several others following it from time to time, were in force, and the legislature acknowledged none but Pro-

* He is said to have been hanged, not on the gibbet, but on a tree, whereon one of his scholarly enemies wrote:

"Vive diu, felix arbor, semperque vireto
Frondibus, ut nobis talia poma feras."

testants in the land, many of the great territorial lords, who were nearly absolute on their own estates, retained their adherence to the ancient worship, and encouraged and protected their followers who kept in the same faith. The Earl of Huntly, who exercised an authority almost regal over territories, highland and lowland, in the north, was at the head of the body who were called the Catholic Lords.

At the juncture of the Spanish armada, the knowledge that there existed such a formidable body, and certain occasional glimpses obtained into mysterious correspondence and combinations with which they were associated, were very alarming to England and to the Scottish Protestants. But, in that moment of intense anxiety and excitement, the most formidable consideration of all was, that the king might be inclined to their side, and that of the cruel Spaniards. The balance turned in favour of Elizabeth, England, and Protestantism; but it is impossible to read the annals, and especially the letters and state papers of the period, without noticing how sensibly it wavered. It is at such a juncture, when all kinds of horrors were within the expectation of the Protestants, that one can most readily excuse any outbreak of bigoted ferocity against the abettors of the cruel King of Spain; but, in reality, it was a time when the Catholics were treated with com-

parative leniency—for they had become powerful, having in a great measure gathered up their strength after the prostration accompanying the Reformation victory of 1560. In the end, however, it was necessary for the king to take a side. He marched northwards, and overthrew the Catholic lords in battle. There was an outcry among the more violent Presbyterians to put the idolaters to death; but, though few political executions of that day would have been better justified, a more lenient course was pursued. The Presbyterian clergy charged the king with a countenancing of Popery, and they were not far wrong; for we now know that he was determined, if possible, not to break entirely with the Roman Catholic party, and lose their aid, should it be necessary, in lifting him on the throne of England.

In the year 1592, some secret information led to a search after a person named Ker, who was supposed to be attempting to leave Scotland by the west coast, with important documents in his possession. The minister of Paisley, accompanied by an armed force, was so successful as to apprehend him in one of the Cumbray Isles, in the Frith of Clyde. A set of mysterious slips of paper were found in his possession, which are known in history by the name of "The Spanish Blanks." They were tech-

nically described as "aught blanks in paper: twa thereof subscribed by the said Earl of Angus allenarly; other twa by the said Earl of Huntly allenarly; and other two by the said three Earls and Laird of Auchindoun — all sent to Spain. Whilks blanks has no designation on the back, nor declaration of the causes for which they were sent— but blank and white paper, on both the sides except the said subscriptions." The following is a specimen of these brief mysterious documents:

> "De vostre Majestie tres humble
> et tres obesant serviteur
> *Guillame compte de Angues.*"

Some of the astute statesmen of the day tested the paper with chemical preparations, under the supposition that they would divulge some inscription penned with sympathetic ink—but without success. Ker was put to the torture, and from his confession, and some more explicit documents which were intercepted, a conclusion was adopted that the blanks were to be filled up with offers of aid and allegiance to the King of Spain, should he land with a force in Scotland. Among the more distinct letters which were disclosed, some contained overtures to the King of Spain and the Prince of Parma. Neither the originals nor authenticated copies of these documents are known to be extant, and they are to be

seen only through the questionable medium of a translation published in Scotland at the time.* Among these, a long confidential communication to the Duke of Parma, by an agent bearing the high historic name of Robert Bruce, was calculated to raise much alarm and indignation. The writer says, with a sort of sordid earnestness: "As for me, albeit I speak not willingly to the disadvantage of any whatsomever—chiefly of them whom I have recommended, as I did the said Thomas Tyrie to the said Don Bernardino—yet I will prefer the love of the truth to men, and would not, in concealing thereof, bring prejudice to the public weal, nor the fidelity that one oweth to others,—and especially to that we owe all to the King of Spain and your highness, to whom I am presently servant particularly addicted, by the obligation of five hundred crowns of fee, and forty for monthly entertainment, whilk it has pleased your highness to give me; by reason whereof I am the more bound to give your honour most humble thanks, and to endeavour myself to deserve, by most humble and faithful services, as well the said entertainment as the recompense it has pleased your highness to promise me of your grace and favour."

He gave—or rather, it should be said, he was

* Reprinted.—Pitcairn, i., 317.

represented as giving—the following somewhat alarming, and, to the other side, aggravating account of the policy of his order:

"It is no small marvel, considering the means the heretics has to harm us, and their worldly wit so far passing ours, and their evil-will and intention against us, that we subsist. Truly, we cannot but attribute the effect thereof to God, who then, when the certain news of the returning of the army of Spain, by the back of Ireland, were dispersed through this country, and the heretics of the faction of England triumphant, and the constancy in the outward profession of the Earl of Huntly and others was brangled, caused the Earl of Angus to die, who was chief of the English faction; and the self-same time suscitate some dissension among the heretics, by reason of some offices that some pretended to usurp above others at court; and, by the instant prayers and holy persuasions of two fathers —Jesuits—converted to our holy faith two heretic earls, of the first of authority and power among them; the one whereof is called the Earl of Errol, constable of Scotland, converted by Father Edmond Hay; the other, called the Earl of Crauford, converted by the said father, William Crichton. They are both able and wise young lords, and most desirous to advance the Catholic faith and your

enterprises in this isle, whilk they are deliberate to testify to his majesty Catholic and your highness by their own letters—whilk, by the grace of God, I shall send by the first commodity. In the mean time they have required me to make you offer of their most humble and most affectionate service, promising to follow whatsomever the said Jesuits and I shall think good to be done for the conservation of the Catholics, and to dispose and facilitate the execution of your enterprises here, whilk they may do more easily nor they that are known to be Catholics—whose actions are ever suspicious to the heretics for their religion, whereof these two earls have not yet made outward profession; but in that, as in the rest, they submit themselves to our will, and to that we find most expedient. The said fathers of that company makes great fruit in Scotland; and so soon as ane lord or other person of importance is converted by them, they dispose and incline in the very mean time their affection to the service of the King of Spain and your highness, as a thing inseparably conjoined with the advancement of the true religion in this country."

The punishments which followed the exposure of the Spanish blanks were not deemed sufficient by the Presbyterian clergy, then triumphant and strong.

They demanded of the king thatPopery should be exterminated; and as he did not comply with their desire, they preached and prayed against him very vehemently; among other things, beseeching that "by some sanctified plagues he might be turned again to God." The modern Solomon had, indeed, at that time plagues enough. That turbulent and riotous nobleman, Bothwell, sometimes taking part with the Presbyterians, and sometimes with the Catholics, would startle the poor king of a night by battering with a huge hammer at the palace-door, or would be found with his sword drawn actually behind the hangings in the royal bedroom. The Presbyterians were abusing and threatening the monarch on the one side; the Roman Catholics, on the other, were in arms, and laying plots with foreign powers. Frightened by the vehemence of the Edinburgh preachers, and mistaking, in his terror, the character of some little acts of turbulence which had no actual reference to himself, he fled out of the city, and spoke of creating a capital elsewhere. Nor would he return, till the fear of losing the ever-desired privilege of being the home of the court, made the substantial citizens of Edinburgh implore him to relent, after having in some degree mollified the fierceness of the divines who had driven him forth. A curious and mysterious little historical episode, intimately connected with the conduct and

the trials of the Catholics, now occurred. James, in returning to his capital, somewhat humbled the Presbyterians, and created a reaction against the act for establishing the Presbyterian polity, which he and his courtiers had, a year or two before, not in very good faith, sanctioned. In fact, he was taking gradual steps for the restoration of Episcopacy, and the Presbyterians knew it. The Earls of Huntly, Angus, and Errol, who had been so deep in the Popish conspiracies, had not been pardoned, though they were unpunished. They desired a reconciliation with the king—that is, they desired to be relieved from apprehension; and with an air of surpassing candour, they proffered their willingness to be converted to the Protestant faith, by any Presbyterian divine who should be successful in establishing the truth of his own faith and the falsity of theirs. Of the theological arguments by which they were vanquished no account seems to be preserved; but there is extant a short and impatient letter by James, telling them that they must turn Protestants, and turn at once. "I must love," he says, "myself and my own estate better than all the world. And think not that I will suffer any professing a contrary religion to dwell in this land."*

At last the Popish lords announced that they

* Inserted in Tytler's Hist., ix., 232.

were converted, and a great ceremony inaugurated their solemn renunciation of idolatry and adoption of the tenets of the Reformation, in the old church of St. Nicholas, in Aberdeen. The ceremony was seen by a Mr. P. Mollison, who writes a slightly sarcastic account of it to his "loving gossip," Mr. R. Paip. He describes the earls all "set in the marriage-desk before the pulpit," and a vast throng of persons present, while they listen to a long sermon. "The sermon being concluded, the earls rises forth of their desk, comes in before the pulpit, makes an open confession of their defection and apostacy, affirms the religion presently confessed to be the only true religion, renounces all Papacy, &c., &c., and, of new, swears never to decline again, but to defend the same to their life's end." The day of the ceremony was one of fasting and humiliation; the day following, when they were new men, was ushered in by more pleasurable auspices.

"The Cross of this burgh was solemnly hanging with tapestries; ane little house beside the same, covered suchlike with tapestry, whereon the musicians were placed—fourscore of the young men of the town in their best habiliments, with their hackbuts; the magistrates and council by themselves; six persons, maskers; a table covered, at the Cross, whereon were surfitfits, comfits, and other confec-

tions, with a great number of glasses; wine in great abundance; the earls' pacification and peace by sound of trumpet, and by Gilbert Guthrie, Marchmont-herald, proclaimed. The two earls sat at the Cross in chairs, with his majesty's commissioner and the ministry. The wand of peace delivered to them by Patrick Murray; he receives them in his majesty's name. Next, the ministry embraces them; and next, the provost, bailies, and magistrates. Hackbuts' sounds, that day nor dur(?) could not be heard; wine drunken in abundance; glasses broken; surfitfits casten abroad on the causeway—gather whoso pleases."*

There is something in the character of the whole transaction which stamps it as a solemn mockery. It may easily be seen, from the tone of the Presbyterian writers of that period, that they were not satisfied with the sincerity of the homage paid to their system; and, not without considerable reason, they set down the conversion of the Popish lords as a step in the scheme, afterwards accomplished, of restoring Episcopacy. James did not care to drive the Catholics to desperation, for even yet he knew not but he might throw himself, some day, into their hands. On the other hand, when the Presbyterians demanded some sacrifice, he would have

* Analecta Scotica, p. 301.

very readily, but for this reason, have handed over the Catholics to their uncovenanted mercies. Hence the strange tortuosity of his councils at this time.

He was not a man of any very positive clerical belief himself. He might have belonged to any one of the three Churches that suited him best. There were two classes, however, whom he cordially hated—the ultra-Presbyterians, who used to abuse him in their sermons, and get the better of him in dispute, and the Jesuits, and other high Catholics, who maintained the authority of the Pope over temporal monarchs.* He could not endure these

* Of the former he said, giving advice to his son in the Basilikon Doron, "I protest before the great God (and, since I am here upon my testament, it is no place for me to lie in), that ye shall never find with any Highland or Border thieves greater ingratitude, or more lies and vile perjuries, than with these fanatic spirits; and suffer not the principals of them to brook your land, if ye like to keep at rest, except ye would keep them for trying of your patience, as Socrates did an evil wife." In his first speech to the English parliament he said of the Catholics, "I must directly say and affirm that, as long as they maintain one spiritual point of their doctrine, and another of their practice, they are no way sufferable to remain in the kingdom. The point of doctrine is that arrogant and ambitious supremacy of their head, the Pope, whereby he not only claims to be spiritual head of all Christians, but also to have an imperial civil power over all kings and emperors, dethroning and discrowning princes with his foot as pleaseth him, and disposing and disposing of all kingdoms and empires at his appetite. The other point which they observe in continual practice is the assassinations and murders of kings: thinking it no sin, but rather a matter of salvation to do all actions of rebellion and hostility

horrible doctrines of spiritual supremacy, whether in Papist or Puritan. Against the former he could protect himself, for the law was against them; yet while he would fain have had it also against the latter, for the reason already alluded to, it was not his policy to drive even the Catholics to extremities, and render them desperate.

Indeed, his Presbyterian clerical tormentors made allusions to secret negotiations and encouragements offered to foreign Papal courts, which occasionally made the king wince. They had good ground, as we can now see, for their suspicions, and he for his alarm. There is no doubt that he had secret negotiators dispersed throughout the Catholic courts, to sound their inclinations towards his claims, if they were not authorised to make stipulations for securing their concurrence with his accession to the throne of England. The Cardinal D'Osat, in a letter to M. Villeroy, alludes to a Scottish agent at Rome—an allusion which Winwood, in his Memorials, notices in connexion with the intrigues in Spain of a Scottish Jesuit named Ogelvie—the same, it is said,

against their natural sovereign lord, if he be once cursed, his subjects discharged of their fidelity, and his kingdom given over a prey by that three-crowned monarch, or rather monster, their head."—Kennet, ii., 671. It will be observed, that when he made these truculent remarks, he was safe on the English throne.

who afterwards suffered death for his opinions. Ogelvie, whose offers probably went far beyond his commission, if he had any specific commission at all, proposed in the monarch's name, "in the first place to reconcile himself and his kingdom to the See Apostolic, and to give his holiness satisfaction in these particulars, and to concur in the extirpation of all heresies in the kingdoms of Scotland, England, and Ireland." But a priest named Cecil, who was in the confidence of the English Catholics, appears to have convinced the court of the insincerity of Ogelvie's proffers.

Some original papers in the Advocates' Library introduce us to the more serious operations of the Semple family three years afterwards, in the year 1599. The Lord Semple had lived so long abroad, that he seems in a great measure to have forgotten his own language, and says, in a letter to the king, that his cousin the colonel is surprised that in so "vechti" a matter as "zour magesti's titill to ye crune of Inoland," his majesty "nader gef" him "comissiun nor varrand in na sort;" and he continues to say, "aluayis he has gotin satisfaxsiun to zour magesti, and yat sua sekretlie as na man hir knauis of it, safen ane of ye çunsall quha is his grit frind." He urges the king to send him a more specific commission, as the English Catholics

are counteracting his efforts, and concludes by saying, "I am assurit gef zour magesti fallu out yis mater, zour magesti vill get asistense of ye King of Spane, beth of muni and armis."

In the same collection of papers, there is an undated commission, with corresponding instructions to Semple, signed by the king, and a congratulatory letter to Philip III. on his accession. These documents relate to trade reciprocities and general amity; but there is a little important clause in the commission, empowering Semple to treat of *cætera prout ei a nobis in mandatis credita sunt.* These vague and unsatisfactory papers, however, neither satisfied the ambassador nor the grave Spaniards. Semple writes back, that he was received with great distinction, on account of the commission; but that all his honours dropped away when the commission was translated and its vagueness understood.* It is from the choice of his instruments that the subtle designs of James can be best understood. Colonel Semple was the negotiator sent by the Duke of Parma to Scotland, to procure support for the invasion of the Armada, and he transacted the foreign department of the conspiracy of the Spanish blanks.†

* The Balfour MSS.—Advocates' Library.

† Perhaps this is the same *nobilis Scotus cognomento Simplius*

These exposures lead to the suspicion that an act of severity by James, towards a statesman who had compromised him with the Catholic party, was also an act of gross treachery. In the celebrated dispute with Belarmine, the accomplished disputant referred to the spirit of mildness and conciliation with which his kingly opponent had treated the court of Rome when he desired a favour—namely, that of a cardinal's cap for one of his subjects. James denied the imputation; but the document was extant, and it bore date at the time when it was known that he felt most nervous about his succession to the English throne, and was, under the influence of his fears, least scrupulous in his proffers to the Catholics.

James maintained that the signature had been procured from him surreptitiously; and Hamilton Lord Balmerinoch, the secretary of state, was tried on a charge of treason for having obtained and sent it. In his indictment, he is said to have laid his plan: "First, that it should be shifted in among divers other letters to be signed; secondly, that the same, with the rest, should be presented to his majesty at some time of his going out hastily to the hunting, so as being on the sudden surprised,

who, according to Strada (Dec. ii., Lib. v.), betrayed Liere to the Duke of Parma in 1582.

he should have no leisure to observe and peruse the letters; and thirdly, that such words of title and style as are usually given to the Pope, should be forborne to be set down in it, lest perhaps his majesty's eye lighting upon any of them while he were signing, he might thereby take occasion to observe that letter, and so discover your fraud."* The case was made a great deal too strong; for it was laid down that Balmerinoch had repeatedly pressed on the king the granting of this letter, and had as often been defeated by his majesty's impregnable virtue. This was not a likely introduction to such a sleight-of-hand fraud, since it was calculated to put the king on his guard. Balmerinoch, however, confessed the full charge. His admission is maintained to have been bought by a promise of his life and estates. The former he retained, but with the sword hanging over his head; the latter were forfeited, and the wily old statesman retired a beggar to the dreary mountains, to wail about the folly of those who put their trust in princes. He left a confidential document, asserting that the king knew perfectly well what he was signing, although it was understood between them that his royal attention was not to be especially fixed on it; and it seems very probable that this is the truth.

* Pitcairn, ii., 570.

Once firmly seated on the throne of England, James felt himself more free to strike the propagators of the offensive doctrines against kingly power; and the gunpowder-plot at once brought his previously lukewarm enmity to a crisis, and strengthened his arm. From time to time we find the statutory punishment of death denounced, and some secondary punishment executed, both against the priests who administered the mass and the persons who were present at the administration. Thus, in 1607, William Macmurdoch is put on trial for saying mass in the Marquis of Huntly's castle of Strathbogie, in the Lady Sutherland's mansion of Dunrobin, and in various other abodes of great territorial families. The king writes on this occasion a letter to the judges, intimating that "no doubt he will be found culpable on his own confession," as if the matter had been pre-arranged; and desiring that his sentence should be "appointing him to be tane to the market-cross of Edinburgh, being clad in his mass clothes, in the same form that he was taken; and after he has been presented to the view of the whole people, he then be stripped of all his mass clothes, and the same, with all his other Popish baggage that was apprehended with him, to be presently passed into the fire then ready, for the purpose to be consumed and

burnt to ashes; and therewith that he be adjudged to be banished forth of all our dominions during his natural life, under the pain of death in case of his return back to any part of the same."*

It is not until the year 1615 that we find a victim actually put to death for his Popish opinions; and it is said, not without some grounds of truth, that whatever sacrifices of life there may have been among the political partisans of Catholicism, this is the only instance in which Protestantism in Scotland has drawn blood for mere belief. On the 28th of February, 1615, John Ogelvie was tried at Glasgow for "treason, declining the king's authority, alleging the supremacy of the Pope, hearing and saying mass," &c. The proceedings against this poor man were borrowed from the formulary of the Inquisition. He was not put on trial for any act which he had committed, but, being a person whose opinions were suspected, every effort was made to commit him to the assertion of punishable opinions, or else to the abjuration of his faith. In the preliminary inquiry he exhibited "nothing but a pertinacious refusal to answer in points most reasonable;" whence it was resolved to try the efficacy of torture. "And here it being remembered, that in the trial of some criminal per-

* Pitcairn, ii., 531.

sons it was found that nothing helped more to find out the truth of the faults wherewith they were charged than the withholding of their natural rest, it was advised that he should be kept without sleep for some nights, which was accordingly done; and during which time it was perceived that he remitted much of his former obstinacy."

If what his assailants desired was an open defiance, and a cool expression of contumelious scorn for their opinions, they must have been satisfied by his conduct at his trial. Being asked what he said to the charge against him as treason, he answered, "I deny any point laid against me to be treason; for if it were treason, it would be treason in all places, and in all kingdoms; but that is known not to be so. As for your acts of parliament, they are made by a number of partial men, the best of the land not agreeing with them, and of matters not subject to their forum or judicatory, for which I will not give a rotten fig."

On the king's prerogative he said, "I know no other authority he hath but that which he received from his predecessors, who acknowledged the Pope of Rome his jurisdiction. If the king will be to me as his predecessors were to mine, I will obey and acknowledge him for my king; but if he do otherwise, and play the runagate from God, as he

and you all do—I will not acknowledge him more than this old hat."

This was distinct enough, nor did the perverse priest moderate the boldness of his tongue when further pressed; in fact, he had made up his mind to martyrdom, and was resolved, in parting with his life, to sell it as dearly as possible, in the enunciation of bold and offensive doctrines. He could even take an arrow from the ultra-Presbyterian quiver, and when required to be still more explicit on the royal prerogative, said, "For the declining of the king's authority, I will do it still in matters of religion, for with such matters he hath nothing to do;—neither have I done anything but that which the ministers did at Dundee; they would not acknowledge his majesty's authority in spiritual matters, more than I. And the best ministers of the land are still of that mind—and if they are wise, will continue so." When driven to the extreme question, whether the Pope could depose the king; and whether, if he were deposed, it would be lawful to put him to death? he said that these points had not been fixed as articles of faith by any council, but whatever articles of faith might be declared by council, on these points, he would lay down his life for them; and he went on to maintain, "That if the king offended against the Catholic

Church, the Pope might punish him as well as a shepherd, or the poorest fellow in the country,—that in abrogating the Pope's authority, the estates of parliament had gone beyond their limits,—and that the king in usurping the Pope's right, had lost his own."

He was no less incorrigible in vindicating his acts as a missionary, than in asserting his opinions. When questioned on this matter, he answered: "I came by commandment, and if I were even now furth of the kingdom, I should return; neither do I repent anything, but that I have not been so busy as I should in what ye call perverting. I hope to come to Glasgow again, and do more good in it. If all the hairs in mine head were priests, they should all come into the kingdom."

"The further he proceeded in speaking," says the account of the trial, "his speeches still grew to be more intolerable;" so the discussion was concluded, and the real business carried through. Ogelvie was convicted, and condemned to be hanged and quartered. After some words of courtesy to his judges, he cried, "God have mercy on me! if there be here any hidden Catholics let them pray for me — but the prairs of heretics I will not have." His execution appears to have taken place within a few hours after his trial; and much indig-

nation was expressed against the scandalous conduct of a man named Abercrombie, shrewdly suspected to be also a Popish priest, who offered him some words of consolation and encouragement on the scaffold.* Several persons were convicted of having visited Ogelvie, or of having afforded him nutriment and protection. They were all condemned to be hanged, but their punishment was commuted to perpetual banishment.

This act of severity was not so fortunate as to secure that favour from the Presbyterians which the king seems to have expected for it. It was not done by themselves, but by that Episcopal hierarchy which James had raised up, and which they disliked little less cordially than Popery itself; and it was done as if vauntingly to show that Episcopacy could deal with Popery as boldly and effectively as Presbyterianism — that the bishops could hang a Papist as heartily as the presbytery. It met with more carps and sneers than cordial applause from the Presbyterian historians; and Calderwood bluntly says: "Some interpreted this execution to have proceeded, rather of a care to bless the king's government than of any sincere hatred of the

* True Relation of the Proceedings against John Ogelvie, &c. Pitcairn, iii., pp. 335, 369.

Popish religion. Some deemed that it was done to be a terror to the sincerer sort of the ministry, not to decline the king's authority in any cause whatsoever. He was the first priest, or Jesuit, that was executed since the bastard Bishop of St. Andrew's was hanged."

Among the priests themselves, such an event, if it frightened some, would arouse new heroic energies in others. The profession was elevated by the dignity of danger and martyrdom. The trafficking priest, the Jesuit missionary, no longer humbly skulking from the village stocks, or the Tolbooth, looked death in the face, and felt his mission ennobled by the desperate alternatives which the powers of evil prompted wicked men to take for his extirpation. The cause became higher and holier in his eyes. Its influence was reflected on the votaries of the condemned faith, who clung the closer round those who braved these dangers for their eternal welfare, and offered a submissive reverence to the candidates for the crown of martyrdom, which a Church trusting to less lofty aspirations could not have elicited. There are grounds for believing that, for many years after the Ogelvie tragedy, a considerable number of friars and priests lurked through Scotland, gliding hither and thither as their services were needed, and

trusting their safety to the untiring zeal, the discretion, and the impregnable secrecy of a devoted flock. Generally, they were men of high courage and self-devotion, for no others could undertake a function of which all the temporal inducements lay in the danger. They were scholars; men of the world, who could go through its business, and even participate in its pleasures, without betraying the priest even to vigilant and suspicious eyes; and, finally, they were trained to arms, and could defend themselves in case of need.

One of these protean priests, named Gilbert Blackhal, left behind him a detailed account of his services and adventures. It may or may not be perfectly accurate—one is apt to suspect the clerk militant of slightly overcolouring some of his warlike achievements: but it tells truth, at all events, as a memoir characteristic of the times, and it serves this purpose all the better that it was not prepared for publication, but designed as a narrative of facts, to bring them home to the knowledge of certain persons interested in them. Father Blackhal's object was to make known the full extent of his services to "three noble ladies" connected with the family of Errol.* The father was a mortified and disap-

* A Brieffe Narration of the services to three noble ladyes, by Gilbert Blakhal, Priest of the Scots Mission in France, in

pointed man, who had to reiterate his faithful services to haughty and ungrateful females.

Many of Blackhal's adventures relate to his wild journeys over mountain regions to visit his far-scattered flock. Separating them from each other were "the Cuishney hills, as wild a part as is in all Scotland, which I have crossed many times at midnight all alone, when I could not see whether I was in the way or out of it, but trusted my horse, who never failed or fainted in the way." Once, in one of the great speats or floods caused by the melting of the snow in spring, he was swept, while endeavouring to cross a flooded brook, into the river Ilay. After despairing of his life, a fortunate effort of his horse brought both to the shore; but a priest at that time had peculiar impedimenta, which rendered such adventures more disagreeable than they were to other people. "When we were both at land," he says, "I did perceive my saddle, with a

the Low Countries, and in Scotland, 1631-1649. This is one of the valuable series of historical documents printed for the Spalding Club, which have been frequently cited in these pages. It has been learnedly and accurately edited for the use of the members, by the secretary, Mr. Stuart. The MS. was furnished by the Roman Catholic bishop, Kyle. It is believed that many interesting and valuable documents, illustrative of Scottish history, are in the hands of Roman Catholic ecclesiastics; and it were to be desired that the tone in which they and their Church are historically spoken of, were in such good taste as to induce them to offer a freer use of their stores.

great valise tied to it, going down towards the river. I did go in again, and draw it to the land. Then I see my hat and a little valise of red Spanish leather, wherein was my mass vestments, swimming down the river. I returned in once again to the head and brought them out, thinking with myself that the people and ministers would persuade themselves, finding these vestments, that some priest had been drowned in that river, and rejoice thereat."

After this lucky escape, he says: "In the midst of lent I did go to Aboyne, and when my lady did see me she did make the sign of the cross upon herself, thinking me a spirit—we call it in Scotland a wraith. For she was persuaded that I was drowned, and was very content that the news of my death was false. She made me stay there until Easter, where I made exhortations every Sunday, Tuesday, and Friday, upon the passion of our Saviour, which did please her and her domestics, especially her master-cook, Alexander Lamb, who thereafter abjured his heresy before me, and died two years thereafter a devout Catholic." It is possible that the father benefited much in temporal matters by bringing this lamb into the fold, for he speaks with all admiration and gratitude of the lordly way in which he was fed, above the feeding of the priests in the houses of greater and richer

ladies, such as the Marchioness of Huntly and the Lady Moray. "She had a more noble and generous heart than any of them, and keeped a good house; and gave power to her priest to send his man to the kitchen and choose upon the spit what piece or pieces he should think would please his master best; and that piece or pieces were sent to his chamber to him when they were roasted—oftentimes before my lady did dine or sup, which priests could not do in the houses of these other ladies, nor in any other house in all Scotland—nor England neither, I believe; for in great houses, if the priests eat in their private chambers, they must stay till the lady send them from the table upon trenchers such pieces as she pleaseth."

This Lady Aboyne—one of three whom the father served with so much zeal—was the widow of that young Lord Aboyne who was slain in the Frendraught tragedy.* Her dowry house was close on the borders of the Highlands, and if it might afford thus a place of refuge, which gave a member of the hunted classes—such as Blackhal was—a ready means of retreat, it was extremely open to the depredation of the mountaineers. The great Catholic families had still a wide influence in that district—an influence not entirely broken

* See vol. i., p. 213.

before Cromwell's government. In his journeys in the southern counties it was certain destruction to the priest to be recognised by any portion of the miscellaneous people. His predecessor sought the same obscurity and seclusion at Aboyne, but he, by his own account, adopted boldly a new policy—thus:

"Thenceforth I did go publicly to the table, and walked abroad publicly, and the people were no more curious to see the priest, as they were when he keeped himself closed up in his chamber, which I could not endure. For one of the people did tell another which was the priest's chamber, and if he opened but his window they did run to get a sight of him, as of a monstrous thing. They did so to me at the beginning, but I did very soon remede their curiosity, showing myself to them more than they desired; for there was no man in the parish better known than I, nor better loved by the best sort, notwithstanding the opposition of our religion —except one gentlewoman, called Janet Forbes, wife to George Dorwart, who said to my own man that she hoped to wash her hand in my heart's blood."

The high influence which the priest exercised over the lonely widow and her establishment, show how futile were all fulminations and penalties to destroy this willing obedience—how much they

often served to strengthen the homage of a proud humility. Blackhal says that the lady described him as holding three functions—he was her priest and confessor; her chamberlain; and the captain of her castle. And he details services which show that he well deserved all the three. The father, beginning with the statement that he is not "a man of intrigue, who loves to meddle in any one's affairs, especially unrequired," narrates the summary manner in which he superseded the constituted authorities of the household. The butler he found "spent what he pleased in the pantry, which was open to all that would keep him company till midnight." "It was right under my chamber," he says, "and I did hear them both day and night there."

The way in which this worthy balanced his accounts was the simplest possible. "He never can nor did make other compt but simply—all is spended;" and his example was followed by all others who made disbursements for the widowed Lady of Aboyne, until Father Blackhal took the whole into his own management. "The only remede is, said I, to send them all away and make a new household, as they do in France with incorrigible servants." The priest must have felt his position strong indeed within his own circle, whatever might be his perils from without, when he could

thus exercise the high hand, and accomplish what many an undoubted lord of a household tries in vain.

The father's services as captain of the castle were no less comprehensive and effective. "When I did enter in her service," he says, "there were only two pistolets in all the house, and they belonged to Alexander Davidson—a man who keeped ever a pair of pistolets, but never in all his life did fire one; so that they served to him only for parade, as he avouched to me." Under the energetic measures of the warlike priest, this innocent brace of pistols was superseded by "eight double muskets, with ball and powder and match conform, and as many light guns with snap works; with a long fowling gun and a very wide carbine, capable of nine or ten pistol-balls at a charge, which I used to hang at my shoulder when I rode through the country. So we had eighteen pieces of firework, forby four pistolets that I had, and two that Alexander Davidson had—in all, four-and-twenty—and an hundred pounds of powder."

It appears that there was speedy occasion for all these warlike preparations. The disputes of the Covenant took the restraints of the law off the Highland freebooters, who plundered Cavalier and Covenanter with perfect theological impartiality. They came down in force more than once on the house of

the Lady Aboyne, though her connexion with the head of one of their great clans ought, by rievers' law, to have kept her exempt from their assaults. It would make too tedious a narrative to tell how they were outgeneralled by the fighting priest; how he marshalled his small garrison, so as, in outward appearance, to double its size; and how, not contented with defeating an attempt to take his little fortalice by assault, he fell by surprise upon the enemy's camp, taking every one of them prisoners, though they were four times as numerous as the garrison.

On his proper function of priest the father is, of course, less communicative. The lady made pilgrimages "to our Lady of Grace in Murrayland. It had been of old a very devout place, and many pilgrimages had been made to it from all parts of the north of Scotland; but then there was nothing standing of it but some broken walls which the minister made throw down within the chapel to hinder the people to pray there; a great devotion to their holy covenant, rebellious both to God and their king. She used to make the pilgrimage every year so long as she had health to do it, a matter of thirty miles from her own house, whereof she made two of them a-foot and barefooted next to the chapel."

As he is rendering to the daughter an account of his unrequited services to the house of Aboyne, he thinks fit thus to remind her of her mother's last moments, and of his own sufferings and services thereanent: "I am persuaded you have not forgotten, madam (for you wanted not two months of thirteen years when she died), how careful I was both of her body and soul in her sickness; how I watched at her bedside until two hours after midnight, and when she sleeped I retired to my chamber, where I weeped longer time than I sleeped; and how soon I awaked returned again to comfort her, although mine own heart was very comfortless —yea, more than I did show, fearing to discomfort her. She confessed and received the blessed sacrament every week in her sickness, preparing herself for her happy end; and at the end of every confession, before she would rise from her weak knees, she said, her hands joined, 'Now, father, I recommend to you my fatherless child going now to be motherless. I pray you continue to her the charity you have practised upon me since ever I was so happy as to have you with me. I know that she will be put to heretics to pervert her; and therefore do not abandon her among their hands, but visit her, and comfort her, and keep her in the

Catholic religion, and save her soul for God's sake if you can.'"

Along with the history of his power and influence within the circle of his followers, Blackhal affords many stirring incidents of peril and escape in other parts of the country. His account of "What did befall me at the Muir of Rhynie, going to visit Mademoiselle Gordon," would make excellent raw material for a scene in an historical novel. His extreme bravery saved the father's life on this, as on many other occasions. Arriving at a lonely hostelry at night, he found it filled with a body of Covenanters, or rather of supporters of the Covenant party, drinking and eating Findon haddocks—a dish which still retains a portion of its local renown. This was awkward company for a priest in those days of contest and suspicion, when every individual traveller scrutinised every other to find out whether he was a friend or an enemy. He was at once received by a pertinacious captain, who put to him the blunt question, "Who are you, sir?" which "did heat his blood."

"And as I thought he spoke disdainfully to me, I answered in that same tone, saying 'That is a question indeed, sir, to have been asked at my footman, if you had seen him coming in to you.' He

said it was a civil demand, and I said it might pass for such to a valet, but not to a gentleman. He said it was civil, and I said it was not." The priest and his companion found refuge in another apartment, but the pertinacious captain followed them. "I made him welcome, and praid him to drink with us, which he would not do, but said, 'I pray you, sir, tell me what you are?' And I answered him, saying, 'Sir, if you would have had but a little patience until I had been set down among you, and my heart warmed with a cup as yours hath been, and then asked me through kindness who I was, I would at the very first word have told you; but you did begin in a disdainful way to question me, as if I had been some country fellow; and that manner of proceeding did at the very first heat my blood, and obliged me to refuse to satisfy your demand.'"

From some of the inexplicable social revolutions which arise in the relative position of men who are imbibing potent liquors, the captain and the priest came to be very friendly, and to exchange compliments and courtesies. The captain praised his new companion's courage and magnanimity in standing to his resolution, though he was but one to twenty. But he still stuck to his point, and as before he had peremptorily and fiercely, now soothingly and

politely he desired to know who and what his new friend was. Blackhal evaded this with an ingenuity worthy of the famed casuistic capacities of the great society to which he belonged. He explained that, having once refused to give an explanation on account of the manner of asking, if he now satisfied their curiosity his compliance might be attributed to fear. He prayed of the captain not to press upon his honour by urging such a request; when they next met he would be as explicit as they could desire.

As the night wore on and the liquor flowed, the friendship of the captain for his new acquaintance grew ever warmer. "And," says the father, "when I did go to my horse, the captain and the minister and all the soldiers embraced me, and the captain must needs help me to tie my valise unto my saddle, and hold my stirrup; but I would not suffer him to do the last, although I could not get him hindered from the first, and I had much ado to hinder him from the last." His reflection on his escape is: "My resolution was, all the time that I was in Scotland, to defend myself as long as I could stand, and in mine own defence die rather by the hands of gentlemen than of the hangman—but my day was not yet come to die at that occasion."

He run scarcely less risk one day approaching

Stirling, when it was in the hands of the Covenanters. It was Sunday—the churches were about to disperse, and he found that the road by which he was to pass the Forth led straight into the town. To return might have been more dangerous than to advance, as implying fear and tempting pursuit; but his usual ingenuity and good-fortune did not desert him. Meeting two fair ladies, he told a tale how urgent and pressing matters called him on a journey, which would be utterly defeated by the delay that would be caused if he had to produce his credentials in the town, and stand an examination. "They were two very handsome gentlewomen, and very civil." Taking compassion on the perplexed traveller, they opened a gate outside the town wall, and conducted him through a "lodging," which "pertained surely to some person of quality, for it was very fair, a great court builded on three quarters, and a baluster of iron on the side towards the garden, which had a fair and large parterre." Thus he reached the bridge without passing through the town, and cantering up the hill, says, "I thanked God with all my heart and soul, who had so mercifully provided to deliver me out of the danger that threatened me." But his most formidable risk was incurred in obeying the injunctions of his departed patroness, and convey-

ing her daughter secretly abroad, to remove her from the influence of heresy. This act, in itself, was a capital crime; and lurking, as he had to do, for some time in Aberdeen, then in possession of the Covenanters, bargaining with skippers, and interrupted by winds and tides, his escape can only be accounted for by a secret antipathy to the Covenant—if there were no direct sympathy with himself, in persons by whom his real character and objects must have been at least suspected.

The other and brilliant side of this picture of priestly life is the influence and respect which the Scottish ecclesiastic commanded in foreign courts. If we may draw a general inference from his narrative, which, whether specifically true or not, must have been life-like—the refugee nobility of Scotland appear to have had scarcely any influence in the Catholic courts, save through their spiritual guides. The rough habits and scanty education of the Scottish gentry exiled by the Reformation,—defects which the new generation at home were fast remedying,—seem to have made them mere clowns at court, whose position, like that of an American or New Zealand chief in our own day, required to be attested by some civilised authority. The priests, on the other hand, were learned and accomplished, and systematically trained in diplomatic etiquette. Blackhal obtained easy access to the persons of

princes, and placed his Scottish wards in their hands. One was received as a *protegée* of the Infanta of Spain, the arch-duchess, daughter of Philip II., and became one of her legatees. By personal application to Anne of Austria, he obtained for the daughter of the Lady Aboyne the promise of a canonry, should she herself accept of it; which was not quite clear, as, when she was to be sent to a monastery, to acquire the French language and the preparatory discipline, she answered, bluntly, "That she would be content to go to a monastery for some time, but that she would not be a *religieuse*." One of the father's chief and most amusing perplexities, indeed, was in the conduct of his *protegées* after he had accomplished all for them. The patrician damsels, barbarous and uneducated, yet haughty withal, could not understand the greatness of the people they were among, or brook the patient ceremony of the courtiers, and the strict adjustment of etiquettes and ranks. "I have seen," says the distressed confessor, "my Lady of Brienne sit in her own carosse without her gate upon the street, fretting a whole quarter of an hour waiting for Mademoiselle de Gordon, sending and sending over and over again for her to go to the mass; and—which did highly displease me—when she was at the carosse, step in it, not opening her mouth to make

any excuse for making the lady stay for her, no more than if she had been mistress of the carosse, and the lady but only her servant." And he makes a reflection thus: "Whether that proceeded from pride, thinking that and much more due unto her, or from inadvertence, not reflecting upon their civilities, which is called a kind of brutality, I know not—God knoweth."

In a sketch of the criminal proceedings against the Popish priests, it appeared to the author not inappropriate to take advantage of the insight thus curiously afforded by Father Blackhal, into the actual life and habits of the persons against whom the penal statutes and the proceedings of the courts were mainly levelled. It is only when such a narrative is privately penned by a garrulous person, unconscious of possible publicity, and thinking only of the individual people he is addressing, that we have much chance of seeing the curtain withdrawn from a system necessarily worked with so much caution, and ever courting secrecy. There are other contemporary accounts of the proceedings of the Scottish priests in the seventeenth century, but, addressed in public self-glory to the Catholic Church abroad, they are not to be believed, and are full of palpable extravagancies and falsities. The adventures of George Leslie of Monymusk, a Capu-

chin friar called Father Archangel, have appeared in various forms. A simple Memoir by Rinuccini, Archbishop of Fermo, went through several editions. It was dramatised at Rome, and the inhabitants of the remote village of Monymusk are called up as Lurcanio, a Calvinist clergyman, Forcina his servant, and Theophilus, an old Aberdeenshire cottager, while Beelzibub is represented in the form of Calvin. One of Archangel's feats is the conversion of 4000 citizens of Monymusk to the true faith at one sitting.

Lord Hailes, whose works convey an impression of saturnine gravity scarcely expressive of his character, appears to have been fascinated by the extravagancies of the Scottish Capuchin, and a string of extracts from the adventurous narratives have their innate extravagance rather exaggerated than modified by the systematic manner in which the sententious annalist strung them together.*

If we were to enumerate the minor proceedings against the Roman Catholics in Scotland in the seventeenth century, they would be chiefly culled from the records of the church courts. It is of course natural to find that, when general assemblies began to be held, they issued many enactments

* They are to be found in the Appendix to the last edition of the Annals of Scotland.

against Popery. The church courts enforced them by censures mounting through various grades up to excommunication, which, before the year 1690, involved civil penalties and disabilities. Of the nature of such proceedings in the ecclesiastical courts, some notice has been taken in the account of the burning of Frendraught.*

In the great conflict of the civil wars, the Roman Catholics are almost lost to sight, the two main parties, Episcopal and Presbyterian, filling the historical canvas. During the Protectorate, persecution of every kind was restrained. In the reign of Charles II. it took, as we shall find, a decidedly different direction; and in that of his brother, the prospects of Catholicism were becoming so triumphant, that certain supple politicians prematurely adopted it, and were mobbed and maltreated in the streets of Edinburgh.

Of a string of acts against "the growth of Popery," the ruling statute for many years was that passed in 1701, by King William's parliament. To counteract the malice and subtlety whereby "the Jesuits, and seminary and mass priests, and trafficking Papists" disguised themselves, a formula or test was enacted, which might be put to any one who was "held and repute"

* See vol. i., p. 228.

within the category; and if he refused "to purge himself," as the statute says, by taking the test, he was liable to the penalties of the act. These were banishment for life, followed by the infliction of death if the banished person returned. The same punishment was applicable to any one discovered "in any meeting where there is either altar, mass-book, or vestments, or Popish images, or other Popish trinkets or instruments of superstition." There are lengthy provisions for preventing, as in England or Ireland, Papists from acquiring or succeeding to landed property; the acceptance or refusal of the formula or test being the criterion of Popery.

The persecution under this act was scarcely hot enough to be interesting. For some time the Established Church, in its pursuit of Episcopacy, seems to have almost overlooked Popery, which existed mainly in a few great houses, where its observances were conducted with extreme caution. In the year 1722, a party of soldiers entered the house of the Dowager-Duchess of Gordon, and there seized a priest, who, according to the charge against him, was preparing to celebrate mass, and who would not take the formula. He was liberated on bail, and, forfeiting his recognisances, was outlawed.*

* Arnott's Criminal Trials, p. 378.

The chief strongholds of the old religion, and the most dangerous, from the seldom-failing presence of Jacobitism as its concomitant, were north of the Grampians. At Aberdeen, a priest named Grant was subjected to banishment under the penal act in 1750, and another, named Gordon, was similarly punished in the year 1751.* The latest case of punishment under the act is supposed to have occurred in 1759, when Neil M'Fie was banished by the circuit court of Inverness, for being "held and repute a Popish priest."† Later instances might be adduced of punishment for exercising the Roman Catholic religion in England.

In 1778, when the measure for mitigating the English penal laws was brought on, a series of riots occurred in Scotland, which, though they were deemed formidable in themselves, were yet but the faint foreshadowings of the hurricane which swept London. There was no ostensible Catholic place of worship in the country; but a house in one of the wynds of Edinburgh, where the offensive rites were said to be performed in an upper chamber, was destroyed, along with the private dwellings of some men either suspected of popery or convicted of toleration. The house of Robertson the historian only escaped by being well protected; the magistrates of Edinburgh, who

* Black Calendar of Aberdeen, p. 26. † *Ib.*, p. 27.

otherwise culpably neglected their duty, thought it would be too preposterous a scandal to let the head of the Presbyterian establishment be sacrificed in a No-Popery outbreak.

At the same time, a resolute and systematic opposition to any relaxation of the penal laws was carried on throughout the country; almost every two or three men who could put themselves into a corporate shape, uniting as petitioners against the measure. In 1780 was published an octavo volume, called "Scotland's Opposition to the Popish Bill." It is more fully described as "a collection of all the declarations and resolutions published by the different counties, cities, towns, parishes, incorporations, and societies throughout Scotland, against a proposed repeal of the statutes enacted, and for ever ratified, by the Revolution and union parliament, for preventing the growth of Popery." People who are frightened by slight and occasional relapses of polemical wrath, as if bigotry were something previously unknown in human nature, and each manifestation of it an alarming malady of the present age,—will see in such a tidemark how far we have made steady progress towards toleration. The fits of zeal come at intervals like waves, but each falls short of that which preceded it.

"Scotland's Opposition" contains many hundreds

of flaming protests, addresses, and petitions. The smallest and most obscure sects are not the least vehement, and the members of the "Berean chapel, Carrubbers-close," express themselves as "filled with just indignation and horror at the alarming growth and encouragement, especially in these lands of late, given to the most accursed, bloody, blasphemous, devilish religion of the Pope and the Pretender—a religion consisting of a conspiracy of lies and fables against the Lord Jesus Christ himself, and of deadly intent and malignity against all his sincere worshippers in every corner of the earth."*

Yet the judicatories of the Establishment gave, in some instances, no faint echo to such blasts of the trumpet. Take, for instance, the protest of the kirk session of Auchtermuchty, which, being concise and symmetrical in its structure, may be taken as a type of the others:

Auchtermuchty, Jan. 19, 1779.

"The kirk session of this parish, having convened, and the meeting being constitute by prayer, took into consideration a report that the penal laws now subsisting against Popery were soon to be abrogated; and being aware of the insidious nature of that religion, its secular magnificence and pomp, its

* Scotland's Opposition, p. 122.

earthly original and rise, its unsupportable pride and insatiable avarice, its notorious encroachments on the civil power, its carnal, and often hellish policy, and its detestable bloodthirstiness and cruelty,—after considering these characters of the Papal empire, and being justly alarmed lest the young and unthinking in Scotland should be seduced by the indefatigable zeal of sly jesuitical priests and missionaries, determined vigorously to oppose such an illegal, ill-timed scheme by every constitutional measure in their power."*

A large number of these documents, not less fierce, but more verbose and less consistent than this specimen, commence the denunciations with a declaration that the subscribers "abhor all persecution for conscience' sake." A remarkable feature in the whole collection is the uniform excellence of the composition, and the accurate use of technical phraseology. Thus the "friendly society of journeymen weavers in Potterrow," the "society of cobblers in Edinburgh," the "ploughmen in Musselburgh and Fisherrow," and "the freemen discharged soldiers of Glasgow," handle all the polemical and constitutional weapons of rhetoric as learnedly and boldly as the provincial synod's "town councils" and county gentlemen. Those who are acquainted with

* Scotland's Opposition, p. 82.

the tactics of national polemical demonstrations, will know the reason of this uniform adaptation to a leading tone.

This might be called the expiring outbreak of anything justly to be called national fanaticism—whatever may have followed it, comes under the milder category of zeal. The penal laws lasted two years longer in Scotland than in England, but in 1793 an act of toleration was passed, appointing an oath of adherence to be taken by Roman Catholics, and a system for registering those who came under the act. The subsequent extension of freedom by the Catholic Emancipation Act is a matter of contemporary history, on which it is needless to enter—the scope of these pages is exhausted at the point where the profession of Catholicism ceases to be a statutory crime.

PROCEEDINGS AGAINST THE COVENANTERS.

THE historian of "the sufferings of the Church of Scotland, from the Restoration to the Revolution," filled two dense folio volumes with the materials which he had collected on the subject, and they overflowed into some ancillary works of biography and general gossip. There is no intention on the present occasion to offer any full account, however much abbreviated, of so large and teeming a subject. It is intended only, without entering into the history of the period or the many conflicts, local or general, by which the country was disturbed, to stand, as it were, in the supreme courts of judicature in Edinburgh, and observe any very noticeable peculiarities which the contest there assumed.

The Restoration commenced with judicial pro-

ceedings which too accurately foreshadowed what was to follow. The English indemnity, ill kept even in its letter, could not be held to extend to Scotland; and men who had been embittered by adversity, and were swollen with the uncharitable pride of political triumph, had too many opportunities for crushing their enemies. The first and most illustrious victim was Argyle. That he should be selected, if there were to be victims, was not wonderful. His head was the natural reprisal for that of Montrose. Though he had professed friendship for monarchy, had not been an ostensible adherent of Cromwell, and materially aided the Restoration, yet in the height of his career he had been the great leader of that cause before which Charles I. had fallen, and the sanctity of the monarchical system had been desecrated. Beyond this, however, there was another and more dangerous element in his position —he possessed vast estates which ought to go into the hands of loyal men.

His trial was by parliamentary attainder—a method of arraignment in which it is not necessary to follow any fixed law. The records of the proceedings would be doubtless interesting, but they have been destroyed. A curious incident of the trial, noticed by Burnet, has created much discussion. Monk, "by an inexcusable baseness," as

the historian calls it, searched among his private papers, and found letters which were used to inculpate the accused. The evidence was finished ere they reached Edinburgh, and the debate on its tenor had begun. But Burnet says, "It was a mad roaring time, full of extravagance; and no wonder it was so, when the men of affairs were almost perpetually drunk." Forms were not permitted to interfere with the objects of those in power, and these letters were read, and allowed their due weight. This statement has been often contradicted, as a malicious fiction of Burnet, to bring discredit on the memory of the great king-restorer; but it has been proved by the professional notes of Sir George Mackenzie.*

The execution of Argyle, had it even been followed by other purely political acts of vengeance, might have had less effect upon the minds of the people had he not been accompanied by other victims, whose fate pierced deeper towards the heart of

* Speaking of the risks attending the use of documents as conclusive against those whose signature they bear, Sir George says, "And yet the Marquess of Argyle was convict of treason upon letters written to him by General Monk; these letters being only subscribed by him, and not autograph, and the subscription having been proved *per comparationem literarum*, which were very hard in other cases, seeing *comparatio literarum* is but a presumption, and men's hands are ofttimes easily imitated, and one man's write will differ from itself at several occasions." —Laws and Customs of Scotland, p. 524.

the Presbyterian party. The great statesman fell in the political contest like the warrior in battle; but to sacrifice a popular clergyman, was a sort of aggression on peaceful society beyond the legitimate operations of war. There was another victim, too, whose political conduct—though he had been a hard worker in politics—was believed not to be his crime, and whose death left the unfortunate impression that he was slain because he was too sincerely and devoutly religious for wicked men to permit him to live. This was Archibald Johnston of Warriston, one of the most remarkable and strangely-contrasted characters of that restless age. He was, from the beginning, the legal adviser of the Covenanters, and many of the documents with which they baffled or bearded Charles I. and his advisers were drawn by his dexterous pen. Burnet, who was his nephew, gives many anecdotes of his perseverance and sagacity. Among these, he mentions a curious and rather incredible intrigue for the ruin of the covenanting party, before the treaty of Ripon. Lord Saville recommended the covenanting army to reject any offers of a treaty by the king, and march straight into England, where they would be joined by the leaders of the parliamentary party. The signed assurance of this recommendation by many of the leaders of the parliamentary

party was sent to Scotland, inclosed in a hollow cane carried by a pedlar. This curious document was placed in Warriston's hands, but he believed it to be a forgery. "The king," says Burnet, "pressed my uncle to deliver him the letter, who excused himself upon his oath; and, not knowing what use might be made of it, he cut out every subscription, and sent it to the person for whom it was forged. The imitation was so exact, that every one, when he saw his hand simply by itself, acknowledged that he could not have denied it."

In the treacherous calm which followed the treaty of Ripon, Warriston basked in the royal sunshine, and was loaded with honours and emoluments, political and professional. He was one of those who, in that age, so strangely mixed up with the highest religious fanaticism, worldly objects pursued with worldly sagacity. When the Covenant was adopted, and he and its other supporters had the vessel of the state entirely in their hands, the reign of the Deity on earth was fulfilled, by his servants being raised to power and dignity, and they had but to go manfully on performing his work, and steadfastly and relentlessly crushing all opposition, whether in thought or deed. But a stronger spirit of the same kind had been raised up in Oliver Cromwell, who also had his view of the holy work

to be performed, and of his own peculiar fitness for it. Warriston met him at Dunbar. The lawyer was one of the unprofessional advisers, or rather leaders, of the army, who, trusting in the possession of a power above that of earthly generals, made old Leslie commit his fatal blunder, and drew from Cromwell the exclamation that the Lord had delivered them into his hands. The practical sagacity which had beaten Charles I. in council, was no match for Cromwell in the field.

A man of Warriston's character was now sore tried between his religious impulses and his practical character. The Covenant no longer carried all before it, and those who relied on the arm of the flesh would require to side either with the new monarch, Charles II., who was accepted as king in Scotland, or with the more triumphant party of Cromwell. A considerable body of the Presbyterians drew aside under the name of Remonstrants, who would take neither side, or touch the unclean thing in co-operating either with malignants or sectaries. Among the multitude of documents by Warriston and his friends, preserved by the zealous Wodrow,* there is one in which the covenanting lawyer appears to have put a case to himself in his dilemma, starting thus:

* In the Advocates' Library.

"When God's covenanted people entrusts God's covenanted interest to the power of God's anti-covenanted enemies, though upon pretence to fight against ane other anti-covenanted enemy—whether a conscientious Covenanter can lawfully concur with such a party in such a cause, or may lawfully abstain, and rather give testimony by suffering against both parties and causes as sinful and prejudicial to God's honour and interest?"

While the Remonstrants, however, had taken up the decided position of enmity to both the temporal parties, Warriston trimmed, or took credit for doing so. In the parliament or committee of estates of 1650, all present were called upon "to give their declaration, on their honour and truth, that they were neither contrivers, carriers on, or voters to the western remonstrance, which was done, all disclaiming it. Warriston did grant that he did see it, was at the voting of it, but refused to give his vote therein. He denied that he was accessory to the contriving of it at first."* Yet his concurrence with the Remonstrants, and his subsequent adherence to Cromwell, formed the grounds of accusation against him.

This last act of backsliding does not seem to have occurred until the lapse of several years, in which

* Balfour's Hist. Works, iv., 169.

the busy politician must have grown sick in idleness, close beside the field which the Protectorate government opened for the exertion of energetic spirits. He had a mission to perform to the government in 1657, and Cromwell, finding him a man after his own heart, and exactly of that clear, energetic, determined character which he desired in his helpers, laid all proper snares for his seduction. He accepted of the offers—was named a commissioner for the administration of justice in Scotland, and had a seat as Lord Warriston in Cromwell's House of Peers.

This defection, as it made him doubly hateful in the pure royalist party, was sorely mourned over by the equally distinct covenanting party. Wodrow, in his private note-book, records that Warriston "used to say, before he would submit to the English, he would take his wife and ten children and beg. However, he was prevailed with to go to London, and there fell. He had a numerous family, and the public was much in his debt, and there was no other way to get his debts paid but by taking a place; and so, with reluctancy, he took a place under Cromwell. Mr. James Guthrie and he were never very intimate after he complied with the English. Before that, they were continually almost writing one another; and Warriston used to

write strange letters to Mr. Guthrie. He spoke of strange motions in his body before manifestations, which he used to term 'the sign of his coming in my flesh.'"*

These notices may seem alien to the matter of his trial and condemnation; but, in reality, it was not for any specific offence that he was condemned, but for being the person of the character and history which these notices develop. To these we may add the following, from the gossiping note-book of Wodrow, as curious indications of a mind mixing up religion with a relish of the pursuits of this world. It was told by one "who was his acquaintance, though but young." "He was with him at hawking many times, and has known him, when the hawks were gone off, sit down at the back of a hill to pray. He used to come down in the season of lavrocking [lark snaring], very early, to Craufordlaw, and call out him and his brethren, then youths; and when nets and all were ready against break of day, he would have said, 'Lads, now is all cords, &c., ready?' When they said 'Yes,' he would have said, 'Then go away and sain yourselves,'† and they behoved to go, and then to their

* Analecta, ii., 159.

† Sanctify yourselves, or pray.

sport."* Wodrow mentions an instance where Warriston prayed for fourteen hours, and another where, in the abstraction of his mind during devotion, his wife, exhausted, fell in a swoon beside him, "and continued some time in it, and the servants, observing, lifted her up and put her in bed —all this was done beside him, and he knew nothing of it till all was over and duty ended."†

The proceedings against him were carried on in his absence. As they were held in parliament, where the rules, binding on the courts of law, were not acknowledged, this was not so remarkable a feature as we shall find that it afterwards became when it was extended to the Court of Justiciary. The same course, indeed, had been followed by Warriston himself, and his fellows, in the condemnation of Montrose. For the like reason of the allpotency of parliament to condemn whomsoever it held in hostility, the accusation was brief and imperfectly explicit. He was charged with adopting the manifesto of the remonstrant party, called "the causes of God's wrath;" with holding appointments "under the hand and seal of the bloody usurper,

* Analecta ii., 159. The context of this anecdote is a little confused, and it might possibly apply to the Rev. James Guthrie, who is mentioned further on.

† Analecta, p. 135.

Oliver Cromwell," and "sitting and acting in the years 1657, 1658, and 1659, upon ane call from the murderer and usurper, or his son, as one of the peers of England in a pretended House of Lords newly set up by the usurper, and by his sitting and acting as president of a pretended committee of safety set up by the murderers and usurpers."*

Warriston was condemned to death on May 15th, 1661. On the first indications of proscription he fled abroad, and skulked hither and thither in Germany and the Low Countries. At length it was rumoured that he had passed into France. A professional spy, a countryman of his own, known by the apt nickname of Crooked Murray, was employed to unearth him. The spy was fortunate enough to fall on the track of his wife, and by skilfully dogging her steps, came on the hiding-place of the proscribed statesman. The despotic government of France readily gave up a refugee of this class—he was taken to the Tower and sent to Scotland for execution, in 1663. There was a pertinacity and long-sustained malice in this act of political vengeance, which deepened the original darkness of its hue.

Old age, or hardship, or some other calamity, had

* Scots Acts, vii., Appendix, p. 70.

strangely broken down the once strong spirit of the veteran statesman. Burnet says, that a physician employed to attend him had weakened his system by deleterious drugs and excessive bleeding. However it occurred, it is certain that his spirit was broken; he made sport to the Philistines, and appeared an abject, fawning creature to those who had quaked before the bold and dexterous leader. An uncharitable but not mendacious observer thus painted the closing scenes:

"Being brought into the council-house of Edinburgh, where the chancellor and others waited to examine him, he fell upon his face roaring, and with tears entreated they would pity a poor creature who had forgot all that was in the Bible. This moved all the spectators with a deep melancholy; and the chancellor, reflecting on the man's former esteem, and the great share he had in all the late revolutions, could not deny some tears to the frailty of silly mankind. * * * *

"At his execution he showed more composure than formerly, which his friends ascribed to God's miraculous kindness for him; but others thought that he had only formerly put on this disguise of madness to escape death in it, and that, finding the mask useless, he had returned not to his wit, which

he had lost, but from his madness, which he had counterfeited."*

The other sacrifice to the happy Restoration was of a nature still more likely to show the people of Scotland that the new government was not only going to take vengeance on its enemies, but to oppress all those whose opinions it disliked. This was the Rev. James Guthrie, a man of good birth, education, and talent. "Mr. Guthrie," says Wodrow, "was at first of the Episcopal way, and so far engaged in it that he courted one of the bishop's daughters. I have not heard the particular way how he was brought off from that way."† But the historian of the sufferings afterwards discovered that he had been directed into the right path by the ministrations of precious Mr. Samuel Rutherford.

Burnet's character of Guthrie is pithy and brief. "He was a resolute and stiff man;" and Mackenzie, in his sometimes expressively circuitous manner, says, "It was to be regretted that a more tractable and quiet person had not the keeping of his great parts and carriage, for he was both the secretary and champion of his party." The very terms of the accusation against him seem the reflection of

* Sir George Mackenzie—Memoirs of the Affairs of Scotland, p. 134. † Analecta, iii., 158.

his restless spirit, importing not so much a specific charge of criminality as the possession and employment of faculties which made their owner a nuisance to such a monarch as King Charles. It was set forth that he did "contrive, complot, counsel, consult, draw up, frame, invent, spread abroad or disperse, speak, preach, disclaim or utter divers and sundry vile seditious and treasonable remonstrances, declarations, petitions, instructions, letters, speeches, preachings, declamations, and other expressions tending to the vilifying and contemning, slander and reproach of his majesty, his progenitors, his person, majesty, dignity, authority, prerogative royal, and government."

One may almost read, in his rigid pale face, his thin resolute lips, and small, deep-set, glittering eyes, one of those entirely self-satisfied bigots, whose path before them is the clear and simple one of doing God's work on earth, according to their notion of what it is, and allowing no feelings of respect for other opinions, and no regard for charity, the public safety, or self-preservation, to interfere with the performance of their holy functions. With Guthrie the Covenant was a truth, all else a lie that must be put down and trodden under foot into the mire, whether it arose in the person of a malignant monarch or a sectarian lord-protector. With such a

character it was the nature of Cromwell to deal. The protector would have outdone him in religious zeal of his own kind, would have claimed to himself the prerogative of representing the Deity with a degree of fervour and resoluteness that would have far outblazed the fervency even of the fiery divine; and all the time would have held the vehement Presbyterian's hand from doing mischief, with a gentle but firm grasp. To put such a man ignominiously to death like the "mere Irish," who fell upon the bloody sod like savages, without a testimony in any intelligible tongue, would never have entered the dreams of the sagest of usurpers.

In truth, Cromwell's dealing with the Scottish clergy was one of his master-strokes of policy. Individually, and in their smaller ecclesiastical corporations, he did not restrain them. They might rage against each other, or against papists, prelatists, and sectaries as they willed. They were divided into two parties, at least; and these two, fighting local battles, in which the one was victorious here, the other there, frittered away the general strength of the body. One only restraint he laid on them; he would not permit them to meet in any general assembly where pitched battles might be fought, and the victorious party represent the aggregate strength of the whole body. He extinguished the assembly,

without bustle or conflict. When the reverend gentlemen, full of debate, were proceeding one morning to their usual place of conflict, they found the doors guarded by troopers, and the whole revolution was accomplished. The Whig government of George II., nearly a century afterwards, adopted the same policy with the English Church; and there are not wanting politicians who attribute to the virtual extinction of the convocation the preservation of the great institution which it represented.

In professing to descend to particulars, the articles of accusation against Guthrie charged him with drawing the Remonstrance, and composing the pamphlet called "The causes of God's wrath." The former is characteristically set forth thus:

"You did compile and draw up a paper, commonly called the 'Remonstrance,' and presented or caused present the same to his majesty's committee of estates at Perth, upon the 22nd of October, wherein most treasonably you utter and belch forth a great many damnable and execrable leasings, slanders, and reproaches against his majesty's dearest father, of eternal memory, and others his majesty's noble progenitors, their persons, majesty, dignity, authority, and government; and also you not only disclaim his majesty's authority over you, and disown him in the exercise of

his royal power and government, in the right whereof his majesty and his predecessors were invested by God, and in possession by a series of one hundred and eight progenitors,* but also most treasonably reproach others, his majesty's good subjects, for doing the same; and most impiously held forth, that the main and great cause of the sufferings of his majesty's people under the tyranny and oppression of the bloody usurper, is the owning of his majesty's interest in this his ancient kingdom, and the purpose of restoring his majesty to his throne and government of his kingdom of England, from which most wretchedly and godlessly you aver that his majesty was most justly removed; wherein also are many more bitter and ignominious reflections, seditions, treacherous and treasonable expressions, tending to the contempt and disdain, slander and reproach of his majesty, his progenitors, in person, majesty, dignity, authority, and government."

Guthrie was a great meddler in those little per-

* This number is exaggerated to the extent of more than doubling what authentic history indicates; but it is in accordance with the old fabulous historians, whose catalogue of kings it was a matter of state policy to support untouched. When the English antiquary, Bishop Lloyd, docked the list, Sir George Mackenzie told him, that had he been a Scotsman, he would have instituted criminal proceedings against him as prosecutor for the crown.

sonal collusions with Charles II., which made him pronounce Presbyterianism no religion for a gentleman. The dissipated prince, who was seeking a throne by the same kind of disagreeable compliance which our secondary dramatists represent as the marital path to fortune, had to endure long exhortations, chiefly directed against his own sins and those of his father. He had to accept that Covenant which did not correspond with his belief, and, far worse, was eminently revolting to his taste; and he had to join the obdurate clergy in a penitential day of fasting for his sins as an anti-Covenanter. If he chucked under the chin the pretty prim daughter of any of the covenanting worthies while the procession issued from the long dreary Church service, there must be a special rebuke thereanent. All these things his soul abhorred, and afterwards, when catching butterflies with Mrs. Nell, or feeding his ducks in the park, leaning on the shoulder of gorgeous Louise de Tremouille, the recollection of his sojourn among the Covenanters in Perthshire probably crossed his mind like a dreary dream.

All these humiliations Guthrie would inflict with grim satisfaction. It was said, too, that by his indulgence in ecclesiastical fulminations, he had made one unrelenting enemy. The profligate

statesman, Middleton, had mixed himself up with the plan of aiding the royal cause by an army of Highlanders—malignants, if not Papists, every one of them. The commission of the general assembly passed an act of excommunication against him. It remained only that it should be solemnly thundered from the pulpit, and this congenial task was assigned to Guthrie. Before he went to church, a young nobleman called on the divine with a letter so urgent as to demand attention even on the Sabbath. It was a desire that the denunciation of excommunication might be postponed, and it was said to come from a person of authority—according to some accounts, from Charles himself. The divine received the letter drily—declined to enter on the subject until the service was over—and desired the messenger to accompany him to church. When there, to his horror, he heard the sentence fulminated with all its concomitant denunciations. It would be delivered with eminent satisfaction, and there was something in the circumstances that would gratify the kind of austere jocularity in which Guthrie and his brethren sometimes indulged. But it was generally believed that this practical sally cost him his life.

At his trial, Guthrie defended himself gallantly. Burnet follows up the character of the "resolute

and stiff" man by saying, that "when his lawyers offered him legal defences he would not be advised by them, but resolved to take his own way. He confessed and justified all that he had done, as agreeing to the principles and practices of the kirk." He was sentenced to be hanged at the cross, his head to be placed over the west bow, and "that presently his arms be delated out of the book of heraldry, and torn in pieces by the lion-herald at the market-cross of Edinburgh, and there to be left torn and renversed."* This chivalrous penalty might seem inapplicable to a covenanting divine, but Guthrie belonged to one of those families of the moderate Scottish gentry which boast of a fabulous antiquity, and Wodrow speaks of him sealing letters with his coat armorial, and making apt allusions to it just before his death.

The same affectionate pen has drawn the deportment and conduct of the condemned man in warm colours. The account may be found in the history of the sufferings, but in a more fresh and unpremeditated shape in his note-book; and it will not be surprising if, in quoting a sentence or two, the original version not intended for publication be preferred.

* For all the proceedings against Guthrie, see Scots Acts, vii., Appendix, pp. 34-74.

"When he was put out, and his judges debating about his sentence, while he was among the crowd of macers, soldiers, and others of that kidney, who were cursing and swearing about him, he declared to my author's informer, he had never nearer communion with God, or sweeter raptures upon his spirit, than at that very time when he knew they were debating where to place his head and the quarters of his body. My author's informer tells him, that his countenance seemed shining when he came out after the sentence, and he was in the greatest composure and sedateness that could be.

"It is said, and he told it himself, that after he had taken the covenant, when he came out to the street—I think it was St. Andrew's—he met the hangman in his robe. It stunned him a little, and he began to think upon the providence, and came to this resolve with himself: 'This I have been about may be my death; but though it should be so, I resolve to stand by it.'

"When Mr. Guthrie was in prison, I remember to have heard my father tell, he (then a student) got in to him, and he spoke a little to him and said, 'There is a dark cloud coming on, and the Lord is about to sweep this land with the besom of destruction; but, Jacob, be not discouraged from following your books: you may live to see the cloud over, and

he afterwards said: and indeed he was so—ingenuously.

"Upon Monday, when the Marquis of Argyle came out of his room to go to the scaffold, he called at Mr. Guthrie's room to bid him farewell. Mr. Guthrie came near him, and when he took him by the hand, he said, 'My lord, God has been with you: He is with you, and God will be with your lordship: and such is my love to your lordship, that were I not under a sentence, I could be glad to lay down your lordship's;' and then they embraced one another and parted—shortly to meet in a better place."*

In another part of this zealous collector's note-book occurs this picturesque incident, which carries one back to the Bollandists, and their lives of the early saints:

"When he mounted the scaffold and had prayed a little time, he went up two or three steps of the ladder—because of the weakness of his head he was unable to go any further or higher; and being well enough seen and heard, he delivered his speech to the people, which was with such a heavenly air and majesty appearing in his countenance, which did shine as if he had been half in heaven already, as some (my father) then present thought; which left such impressions on them, that they thought they

* Analecta, ii., 138.

never saw more of God at the most solemn communion they ever were at.

"When he went further up the ladder, and the executioner was ready to do his office, his last words, which he uttered with a cheerful countenance and elevated voice, were those of the prophet Habbakuk: 'Art thou not from everlasting, O Lord my God, my holy one? I shall not die, but live.' After he was taken down, his head was severed from his body with an axe. It was observed that there was a vast effusion of blood that flowed from his body, which was presently put into a coffin and carried to the old kirk aisle, where it was dressed by a number of ladies of good quality. Some of them took their napkins and dipped them in the blood; and when Sir Archibald Primrose, the register, challenged one of them, Mrs. Janet Erskine (married after to Sir Thomas Burnet, doctor of medicine), for so doing, saying, 'It was a piece of the superstition and idolatry of the Romish Church to preserve the relics of the saints,' it was answered—They intended not to abuse it into superstition and idolatry, but to hold up the bloody napkin to heaven in their addresses, that the Lord might remember the innocent blood that was spilt. In the time that the body was a-dressing, there came in a pleasant young gentleman, and poured out a bottle of rich ointment on the body, which filled the whole

church with a noble perfume. One of the ladies says, 'God bless you, sir, for this labour of love which you have shown to the slain body of a servant of Jesus Christ.' He, without speaking to any, giving them a bow, removed, not loving to be discovered."*

It would not do to leave this tragic incident, and its influence on parties and religious opinion in Scotland, without recording the terrible omen which, in the belief of the Presbyterians even of later times, haunted the statesman who had put the martyr to death, attaching itself to the symbol of his pomp and power.

"It was very confidently asserted at this time, that some weeks after Mr. Guthrie's head had been set up in the Nether Bow-port, in Edinburgh, the commissioner's coach coming down that way, several drops of blood fell from the head upon the coach, which all their art and diligence could not wipe off. I have it very confidently affirmed, that physicians were called and inquired if any natural cause could be assigned for the blood dropping so long after the head was put up, and especially for its not washing out of the leather, and they could give none. This odd incident beginning to be talked of, and all other methods being tried, at length the leather was re-

* Analecta, i., 108.

moved, and a new cover put on. This was much sooner done than the wiping off the guilt of this great and good man's blood from the shedders of it and this poor nation."*

So dawned the happy Restoration on the Presbyterians of Scotland.

These condemnations, so immediate on the accession of Charles II., have been dwelt on at some length, because they are the key-note of all that followed. They offered a bloody defiance to an enthusiastic party, and it was accepted. In subsequent times, when the Covenanters were turbulent, unreasonable, and, where they had the opportunity, tyrannical, all arose out of the thoughtless tyranny that accompanied the Restoration. Had he not been thus made a martyr, Guthrie would afterwards have passed among the Presbyterians themselves for a pig-headed zealot, who could see nothing in a rational and common-sense light. He and the historian who dwells so fondly on his memory, could not have endured each other had they been contemporaries; for Wodrow, though an admirer of zeal, was moderate, prudent, and, as the extreme party deemed, "sinfully complying" in practice. Between him and such as Guthrie, in church courts, there would have been ceaseless bickering, and they would have

* History of the Sufferings, b. i., ch. ii.

probably insinuated charges of infidelity against each other—a not uncommon resource of angry theologians.

In fact, whether from the effect of Cromwell's rule, or from other causes, the majority of the Presbyterians were at the time of the Restoration far from being violent zealots. Many of their clergy were good, easy men, content to do their pastoral work in peace, who would not have looked with any abstract horror on the prospect of being deans and bishops. Ten years of the suppression of polemical violence had made the fanatical remonstrant party a small, almost obsolete body of men, not attacked, but little noticed, of whom their more sensible brethren were reflecting that it was well they were so few,—and if let alone they would doubtless gradually die out. They might have been what their representatives, the Cameronians, became in the eighteenth century—a sect which, by the way, has still, though the fact is not generally known—an attenuated existence in Scotland. The same tiredness of political convulsions that made politicians desire the quiet of the Restoration, would have made the general body of the clergy content to subscribe to articles of peace in religion. Had it not been for the long array of persecutions which the execution of Warriston and Guthrie began,

it is no extravagant supposition that Scotland might have gradually slid into a moderate hierarchy, such as Knox and his friends had laid down, and that the country might have been remarkable for religious peace and toleration. When Sharpe was sent to London as the representative of the Presbyterians, it would have astonished no one had he given up some points, and agreed to a moderate episcopacy. What subjected him to the charge of foul perfidy was, that while professing extravagant covenanting zeal, he made his arrangements for returning to his Presbyterian constituents as their archbishop. It was this flagrant act, not his mere partiality for episcopacy, that created an enmity between him and his old friends, increasing so fervidly, that at last they sought each other's lives —and took them.

The lukewarmness of his brethren was spoken of in Guthrie's dying address. "Many of the Lord's people," he said, "do sadly complain of the fainting and silence of many watchmen, and it concerneth them to consider what God calleth for at their hands in such a day; silence now in a watchman, when he is so much called to speak, and give his testimony upon the peril of his life, is doubtless a great sin. The Lord open the mouths of his servants to speak with all boldness, that covenant-

breaking may be discovered and reproved, and that the kingdom of Jesus Christ may not be supplanted, nor the souls of his people destroyed without a witness! I have but a few more words to add. All that are profane amongst you, I exhort them to repentance, for the day of the Lord's vengeance hasteneth and is near; but there is yet a door of mercy open to you, if ye will not despise the day of salvation. All that are maligners and reproachers, and persecutors of godliness and of such as live godly, take heed what ye do: it will be hard for you to kick against the pricks. You make yourselves the butt of the Lord's fury, and his flaming indignation, if you do not cease from and repent of all your hard speeches and ungodly deeds. All that are natural, and indifferent, and lukewarm professors, be zealous and repent, lest the Lord spue you out of his mouth. You that lament after the Lord, and mourn for all the abominations that are done in this city and in the land, and take pleasure in the stones and dust of Sion, cast not away your confidence, but be comforted and encouraged in the Lord. He will appear to you in joy. God hath not cast away his people nor work in Britain and Ireland. I hope it shall once more revive by the power of his spirit, and take root downward, and bear fruit upward, and of this I am now confident. There is yet a holy seed

and precious remnant, whom God will preserve and bring forth; but how long or dark our night may be I do not know—the Lord shorten it for the sake of his chosen."

Such a testimony, sealed as it was, could not fail to draw the forces off on either side, expanding the precious remnant, by driving either into its ranks or those of the enemy, all who heretofore had been "indifferent and lukewarm professors." And such a result could not have been more aptly driven on than by the measures of that reckless government. In fact, the statesmen of the Restoration—if the name of statesmen can properly be applied to them—were no more guided by thought and policy, than Masaniello and his followers, or any French revolutionists, who, collectively or individually, have lost head, and have ridden recklessly on the wings of prosperity, blindly forgetful of the future. They were mad with the excitement of sudden and unexpected success. They were drunk, not merely with political excitement, but, if we may believe the statement of Burnet already alluded to, they worked in council and parliament under the actual intoxication of strong drink. Some of their most important proceedings bear yet a hue of tipsy recklessness. To save all debates and difficulties, an act was passed for annulling everything that had taken place in the Scottish parliament since

1648. This was found so easy and pleasant a way of getting rid of all discussion, that by a wide step further, an "act rescissory," as it was termed, was passed, clearing away all that had been done in legislature since the disputes between Charles I. and his Scottish subjects began. Thus, at one sweep, the statute-book was cleared of everything back to the year 1633. In the general ruin were swept away, not only the offensive acts for the furtherance of the Covenant, but everything that had been done to facilitate the administration of justice and the internal organisation of the country for nearly thirty years. The wheat was torn up with the tares; but this gave little concern to such reckless men as Middleton and Lauderdale. Out of very necessity, they were obliged afterwards, from year to year, to restore morsels of the system they had so recklessly thrown away. But the trouble and torment, with the many other inconveniences of a separate discussion on each of the acts which they wished to get rid of, were spared. The idea looks very like a tipsy inspiration. Of the rapidity with which it was carried through, there is evidence extant in the following letter, by Middleton, to the lord clerk register, with whom lay the function of preparing the acts of parliament, and who could do much to facilitate or interrupt any project for rapid or fraudulent legislation:

"Edinburgh, March 27, 1661.

"My Lord,—The act that is now before you is of the greatest consequence imaginable, and is like to meet with many difficulties if not speedily gone about. Petitions are preparing, and if the thing were done it would dash all these bustling oppositions. My lord, your eminent services done to his majesty in this parliament cannot but be remembered to your honour and advantage. I am so much concerned, because of the great help and assistance I have had from you, that I cannot, without injustice and ingratitude, be wanting in a just resentment.*

"Now, I am more concerned in this than I was ever in a particular. The speedy doing is the thing I propose, as the great advantage, if it be possible to prepare it to be presented to-morrow, by ten o'clock in the forenoon, to the articles, that it may be brought into the parliament to-morrow, in the afternoon. The reason of this haste shall be made known to you at the meeting, by,

"My lord,

"Your most affectionate servant,

"MIDDLETON."†

* Meaning *reciprocation*.

† Baillie's Letters and Journals, iii., 586.

It would be an intrusion on the province of history, and would lead to fuller details than can find room in these volumes, to take more than an outline glance of the steps for the establishment of an Episcopal hierarchy which followed this act. The act rescissory reconciled the conscience of the king and of his agents to the engagement to preserve the system of church government as by law established. Since the acts establishing Presbyterianism had been swept away, the system by law established was Episcopacy. Had matters rested here, and had moderate people found an excuse in gentle and insidious measures for lapsing into compliance, the bloody history of the persecutions would not have remained to be written. In connexion, however, with the execution of Argyle, Warriston, and Guthrie, with the impeachment of that bright and vehement light of the Church, Samuel Rutherford, who died before proceedings could be followed up against him, and with minor punishments inflicted on people of smaller note, the following state of matters requires to be kept distinctly in view.

The remnant of the old covenanting party were intolerant of everything that diverged from their standards by a shade of difference. Their opposition was a war of extermination; they were pre-

pared to go to the death, not only for the peaceful exercise of their own religion, but for the right of compelling entire submission to their own church government,—which was Christ's form of church government, and therefore the true one, wherefrom all divergence was a sin that should be punished. Even Principal Bailey—a man of high scholarship and accomplishments, a graceful courtier, a skilful diplomatist, versed in all those ways of the world which rub off the harsh excrescences of the rural polemic mind—wrote distinctly and conclusively against the great sin of toleration, and held it the mission of his own Church to abolish prelacy and sectarianism in England or wherever else they found it, and establish and enforce the true religion. A coarser follower, the author of "A Brief Account of the Sufferings of the Church of Scotland," characterised the Episcopal clergy generally as "Godless miscreants of the true Egyptian brood; infamous parricides; infamous varlets; the devil's instruments; savage beasts in human shape; a graceless untoward generation of prelatists, who use nothing but hectoring for reason, and cursing for argument; ungodly Episcopal brutes; the generation of vipers," &c. The remnant so inspired was not prepared to submit in any shape to the government of an uncovenanted king. It denied the right of

Charles to reign, and denied the legality of every act of whatever character which the government attempted to perform.

What should have been the fitting treatment of such men it might be hard to say. But the scandal of the government at this time, was its treatment of those who had no sympathy with them. There was a determination to abandon all moderation and tolerance, and to compel people at once and unreservedly to adopt every point of Episcopalianism, or go over to the violent Covenanters. It was not merely that the moderate party were outraged by the immediate legislative establishment of Episcopacy, but that, by a pertinacious and pestilent inquisitorial system, every one was driven into a corner as it were, and compelled to give in his adhesion to the new order of things spiritual and temporal. No man was permitted to be silent and let matters take their course. Each one was required to make his testimony. A more diabolically perverse plan could not have been adopted for driving moderate men into the camp of the intolerant Covenanters; and so it worked.

Thus, among the earliest requisitions, men who had perhaps subscribed the Covenant, and rather wished to forget it, or who had a leaning to the Presbyterian worship, but no decided objection to

an infusion of ceremony in its plain ritual, or of hierarchy in its institutions, were required by act of parliament to take the following declaration:

"I do sincerely affirm and declare, that I judge it unlawful to subjects, upon pretext of reformation or any other pretext whatsoever, to enter into leagues and covenants, or to take up arms against the king or those commissioned by him; and that all those gatherings, convocations, petitions, protestations, and erecting or keeping of council-tables, that were used in the beginning, and for the carrying out of the late troubles, were unlawful and seditious; and particularly, that those oaths, whereof the one was commonly called the 'national covenant' (as it was sworn and explained in the year 1638, and thereafter), and the other entitled 'a solemn league and covenant,' were and are in themselves unlawful oaths, and were taken by and imposed upon the subjects of this kingdom against the fundamental laws and liberties of the same; and that there lyeth no obligation upon me or any of the subjects, from the said oaths, or either of them, to endeavour any change or alteration of the government, either in Church or State, as it is now established by the laws of the kingdom."

A man of high spirit, though but moderately attached to the Covenant, would repudiate such a

servile test, and was driven from point to point until he drew the sword. For those even who complied, other and more stringent tests were in preparation. It is perhaps the most offensive feature of the system, that compliance was not always desirable. A herd of hungry placemen and partisans lay waiting for fines and forfeitures, and were determined by some means or other to have them.

An act was passed, requiring from all the clergy compliance with Episcopal collation, and the other arrangements of the new hierarchy; and at the same time, according to the policy which stopped every outlet by which conscience or fanaticism might escape, laws were made against private assemblages for worship, which now become stigmatised as conventicles. The slightest infusion of political prudence would have at least suggested that the former act should be but gradually enforced, so that the state, with its great powers, should close with individuals, and fight the clergy in detail. Such a policy, however, did not suit the reckless statesman of the time. An act of council was passed at Glasgow, for immediately testing the clergy in these terms:

" Several ministers have not only contravened the foresaid acts of parliament, but, in manifest contempt of his majesty's royal authority—albeit,

they have justly forfeited their rights to the benefices, modified stipends, and others, continue to exercise their function of the ministry at their respective churches as of before; therefore, they prohibit and discharge all ministers who have contravened the foresaid act of parliament, concerning the benefices and stipends, to exercise any part of the function of the ministry at their respective churches in time coming, which are hereby declared to be vacant; and that none of their parishioners, who are liable in any part of their stipends, make payment to them of this instant crop, and year of God, 1662, or in time coming, as having no right thereunto; and that they do not acknowledge them for their lawful pastor in repairing to their sermons, under the pain of being punished as frequenters of private conventicles and meetings. And command and charge the said ministers to remove themselves and their families out of their parishes betwixt and the first day of November, next to come, and not to reside within the bounds of their respective presbyteries."

It was a peculiarity of this act of council, that it was passed at Glasgow, where Middleton was enjoying the hospitality of the Archbishop of the West. In this, and other features, it had an unpremeditated, undigested aspect. Wodrow tells us, that

the council assembled in the College Hall, and were called by the citizens "The Drunken Meeting;" and Kirkton, a contemporary annalist, who was probably his authority, says: "The report was, being convened at Glasgow, there was never a man among them but he was drunk at the time, except only Lee. But when they were set, the commissioner propounds the case on the bishop's overture, which all approve except the Lord Lee. He told them they would all be mistaken. That proclamation would only lay the country desolate, and increase the hatred to bishops, and confusion among the people; and that they would find the young ministers would suffer more than loss of stipend, before they would acknowledge bishops; and both sides pawned the reputation of their judgment upon the success of the proclamation."*

The effect of enforcing the proclamation was at once visible. Three hundred and fifty clergymen resigned their temporalities, and came forth from the fleshpots of Egypt to feed their hungering flocks with true spiritual manna. But they were not allowed that outlet which the permission to secede and form a voluntary unendowed communion infers. Their ministrations, in any shape were rendered illegal; and thus, as it afterwards was exemplified in the priests of La Vendée, a band of spiritual

* Kirkton—Secret and True History, p. 150.

combatants was set in array — a holy army of martyrs, whose grand duty in life, to be pursued through all perils and privations unto death itself, was to band and discipline the popular mind against the profligate and tyrannical government. Then came the conventicles, and the armed dispersals and conflicts, with which most readers of history are familiar.

One thing yet, however, was wanting to drive every one without exception either into prelacy or rebellion. The parish church might be conspicuous and accessible; but the persecuted remnant could seek for their place of devotion the recesses of those mountain-ranges from which few parts of Scotland are far distant. To pursue them in these retreats was a difficult task, never entirely successful. To solve this difficulty, and draw them off from conventicles, it was resolved that the people should be compelled to attend the Established Church. An act was passed "against separation and disobedience to the ecclesiastical authority," popularly named "the bishops' drag-net." It levied penalties, according to a scale of rank, on all who should "ordinarily and wilfully withdraw and absent themselves from the ordinary meetings in their own parish church for divine worship on the Lord's-day." Subsequently, as the covenanting, like every other reli-

gious enthusiasm, found its warmest supporters in the female sex, the husbands of women who attended conventicles were made penally liable for their conduct.

In 1664 was appointed that form of tribunal which is ever a name of dread to the lovers of freedom civil and religious—an ecclesiastical commission. It was established, avowedly, because the High Court of Parliament, the Court of Justiciary, the Privy Council, and the local courts, were insufficient to deal with the vast amount of judicial business created by the ceaseless imprisonments and other penalties. The terms of the commission inform the reader of the character of its proceedings, as well as if he perused a specific account of them. For the sake of form and appearance, it will be seen that it is first levelled against Roman Catholics. Wodrow generally characterises this feature in the proclamations and other documents as a very laudable one, but complains that it was never enforced;—so did the lamenter over the persecutions of his brethren lament that other people were not persecuted. The commission were authorised—

"To summon and call before them, at whatsoever place and time they shall appoint, all Popish traffickers, intercommuners with, and resetters of, Jesuits and seminary priests; all who say or hear

mass; all obstinate contemners of the discipline of the Church, or for that cause suspended, deprived, or excommunicated; all keepers of conventicles; all ministers, who, contrary to the laws and acts of parliament or council, remain or intrude themselves on the function of the ministry in these parishes and bounds inhibited by these acts; all such who preach in private houses or elsewhere, without license from the bishop of the diocese; all such persons who keep meetings at fasts, and the administration of the sacrament of the Lord's Supper, which are not approven by authority; all who speak, preach, write, or print to the scandal, reproach, or detriment of the estate or government of the Church or kingdom as now established; all who contemn, molest, or injure the ministers who are obedient to the laws; all who do not orderly attend divine worship, administration of the word, and sacraments performed in their respective parish churches by ministers legally settled for taking care of these parishes in which those persons are inhabitants; all such who, without any lawful calling, as busy-bodies, go about houses and places for corrupting and disaffecting people from their allegiance, respect, and obedience to the laws; and, in general, without prejudice to the particulars above-mentioned, all who express their disaffection to his ma-

jesty's authority, by contravening acts of parliament or council in relation to Church affairs."

The social torture created throughout the country by this accumulated and complex system of judicial machinery, led to the well-known rising in the West, which was put down in the field of Pentland by the grim old bearded fanatic of royalty, Dalyell of Binns. The originators of the insurrection were mere peasants, trusting, like the followers of Joan of Arc, in the guidance of an inspiration that was to lead them to success. Believing that they wielded no mere earthly sword, they advanced on Edinburgh with all the confidence with which the warrior priest, Arnaud, led the Waldenses across the Alps to their valleys in Piedmont, but with very different success.

In the trials which followed, there were some noticeable features. Thus, on the 5th of December, 1664, it was ingeniously pleaded for some of the captives on trial before the Court of Justiciary, that "being in arms when taken, and being modelled into an army, and having obtained quarter from the king's general, they ought to be judged by the law of nations observed in war, by which it is evident that those who get quarter are safe."*

To this it was answered by the crown, that the

* Abridgment of Records of Justiciary, MS., Ad. Lib.

terms of surrender only saved them from immediate slaughter on the spot; and that the law of nations, in which belligerent parties respected certain general restraints in dealing with each other, does not apply to rebels taken in arms.

There is no doubt that such a principle is absolutely necessary for the support of any established government, good or bad. There may be many reasons for being merciful to armed opponents; and in great civil conflicts, such as those of the Roses, or of the Royalist and Parliamentary party in the seventeenth century, it may be right that the parties should agree to cede to each other the privileges and courtesies of national enemies. But a system which spares all insurgents on their submission, would be an encouragement to continuous turbulence wherever slight chances of success opened, and would sacrifice more lives than it would save. He who draws the sword against a settled government, must make up his mind to pay in his own person the highest penalty of defeat.

Another remarkable feature of the judicial proceedings which followed this rising, was the trial of several men who could not be apprehended and produced at the bar. Parliament, as we have already seen, had done thus to Johnston of Warriston; but parliament was in use to claim a general omnipotence, and the power of redressing

any evil in any manner it might deem fit. It is an old sound rule of the tribunals of free and civilised countries, that people cannot be accused and convicted in their absence. There can be no security for the justice of a judgment given otherwise than face to face with the accused. In his absence, his judges are spared that check on gross injustice which is supplied by his presence, however much he may be bullied and browbeaten. Had the confronting been often dispensed with, it would have become the practice, in tyrannical and profligate times, for all state offenders to be thus accused and condemned in their absence, the judgment giving the public executioner a right to slay the convict wherever he might be found.

Even if there were no chance of such profligate and revengeful acts, it is a sound policy that a court of law should not be permitted to condemn any but those it can lay hands on. If the ministers of justice are not strong enough to apprehend, they should not be permitted to condemn. Sentences of death against persons out of their reach are not the firm administration of justice, but impotent denunciations of violence, sure to create, instead of overcoming, turbulence. This view is followed in international law, which acknowledges no blockade by a belligerent power, unless it commands a sufficient armament to enforce the cordon.

So strictly had the presence of the accused been established by the constitution of Scotland as indispensable, that, adhering to the letter of the law, when forfeitures were passed on dead traitors, the accused was represented in a manner with which modern judges would be inclined to dispense. At the forfeiture of Logan of Restalrig, charged as an accomplice in the Gowrie conspiracy, his bones were deposited at the bar, that justice might be done on them. But in these proceedings against the dead, those who were really affected by them were heard. The actual sufferers were the kindred and representatives whose estates were forfeited. They might appear before the court, and defend their interest; but living persons, brought under judgment in their absence, could make no defence—they could only plead to the charge by appearing at the bar. True, they were conscious of guilt—the reason of their flight and concealment—but this did not render less flagitious the departure from one of those stern rules of justice, which, founded on no reciprocity with the accused, are the property of the public at large.

The court of session was consulted when this flagrant departure from sound judicial practice was adopted. The criminal judges were in perfectly safe hands; their friends of the civil court were quite prepared

to countenance the novelty, and give it the weight of their name. The concurrence practically illustrated that reading of the text—"in multitude of counsellors there is safety," which holds the safety to be all to the counsellors, whose personal responsibility is lessened by the increase of their numbers. It stands, by the way, to the credit of Sir George Mackenzie, the lord-advocate who earned the unenviable title of "the bloody Mackenzie," that he declined, in his work on the criminal law, to give his sanction to these judgments in absence. "It hath been often found," he says, "that men have been absent rather out of fear of a prevailing faction or corrupt witnesses, or by inadvertence, or not being truly cited, or by being violently detained, than out of a consciousness of guilt; yet, since so judicious a person proposed this overture, and since council session and parliament have fortified it by their authority, I submit my judgment to their determinations."*

These trials became, at the same time, loathfully conspicuous by the profuse use of torture. It was not introduced, unfortunately, for the first time. We have seen too much of it in the Witchcraft cases, when, being supposed to be exercised on people scarcely human in their constitution, it moved little

* Laws and Customs in Matters Criminal, p. 59.

more compassion, in any ordinary breasts, than inflictions on mere animal beings. But now were men subjected to the torture for expressing what the sympathising multitude counted the glorious truths of the Gospel. Among the first of the series, it was given forth that Hugh Mackail, a young visionary enthusiast, but well connected and highly educated, and the brother of the first Scottish scientific man of his time, had borne the torture with a holy rapture, and had welcomed death with such exclamations of ecstatic delight, as the people could find no parallel for out of Holy Writ. Nor while the enthusiasts canonised him, could rational friends of civil and religious liberty forget that he suffered rather for a zealous sermon, than for any violent or criminal acts.

The ample histories of the period must be referred to for the harassing system of military quarterings and exactions of fines practised throughout the country, and for the strangely savage device of bringing down the host of Highland freebooters to exercise their plundering functions on the offending districts. The harassing proceedings against persons intercommuned, or held criminally excommunicated, so that to have intercourse with them or afford them the charities of life was penal, are matters of a technically legal character, yet they

hardly come within the scope of these pages, which find more matter legitimately their own than they can well contain. Nor can that curious device by which the government "took out lawburrows," or swore the peace against the inhabitants of whole districts, receive the explanation which its strange nature might well deserve.

We may, perhaps, find the story of the times most expressively told by passing over a few years, and finding in the criminal trials marks of the influence which the persecution had exercised on the national character. Most conspicuous of all these effects is the ferocious, murderous enmity excited against the persecutors, and concentrating its violence on the apostate Sharpe.

It was in July, 1668, that a nearly successful attempt was made to assassinate the primate. He was stepping into his coach on the high street of Edinburgh, in bright daylight, when a man, muffled in a cloak, stepped up and discharged a pistol. He missed the archbishop, but a bullet shattered the arm of the Bishop of Orkney. The man walked deliberately away along the street, untouched—a remarkable testimony to the execration in which Sharpe was held. His narrow escape roused some feeling of sympathy towards the prelate, whose own relentlessness had isolated him, and Burnet says, he

" thought it decent to go and congratulate on this occasion." The historian says: " He was much touched with it, and put on a show of devotion upon it. He said, with a very serious look, ' My times are wholly in thy hands, O thou God of my life.' This was the single expression, savouring of piety, that ever fell from him in all the conversation between him and me." The isolated man seems to have been conscious that even the minions of the law could not be counted on for very fervent aid in the pursuit of this dreadful enemy; and he seems, with a self-relying firmness which was part of his character, to have taken the matter in his own hands. He had accurately noted, even in the moment of danger and confusion, the assassin's features, and carefully impressed the note on his memory.

Six years had passed over, when the archbishop's attention was attracted by the features of a man who kept a small shop, or stall, close to the archiepiscopal residence, and seemed to watch the prelate with a sinister eye every time he passed by. The more he examined this man's face, the more clearly did it identify itself with that of the assassin. At length he got his brother, Sir William, and some of his attendants, to seize the man, who was found armed with a brace of pistols, heavily loaded. Now,

it was not the object of the archbishop, or those who felt themselves in like peril, merely to inflict punishment in this case, but to find out the real man who held a design against his life. No sufficient testimony to the fact could be found; and unless the prisoner were brought to make a confession, and a true confession showing the whole extent of the prelate's danger—not a mere involuntary admission under torture—the desired object would not be accomplished. According to contemporary accounts, Sharpe got a friend to negotiate with the prisoner, engaging for his pardon should he confess, denounce his accomplices, and give full information of the extent of the conspiracy against the archbishop. The man, however, whose name was Mitchell, knowing that he was in treacherous hands, would admit nothing beyond a general accession to the insurrection in the West, unless he had official assurance of safety. The council next endeavoured to extract the truth, but, as the clerk of the council, Primrose, justly observed, "It would be a strange force of eloquence to persuade a man to confess and be hanged," and the council engaged that his life should be secured. To conduct the negotiation with him, the lord-chancellor took him apart. In a subsequent narrative of the proceedings, given by Mitchell himself, he said, "My confession was made upon oath,

and promise made to me upon life and safety—and, indeed, the promise made to me by my lord-chancellor was in these words :—'Upon my great oath and reputation, if I be chancellor I shall save your life; and if ye will not confess, the council will take another way to make it out."* This narrative, whether it be entirely true or not, gives a curious glimpse into the terrible inquisitorial scenes which then passed within the walls of the secret council. By his own account, Mitchell was an obstinate, impracticable fanatic. The commissioner asking him, "But what ailed you at my Lord St. Andrew's ?"—pointing at him with his finger; he answered, "The grievous oppression and horrid blood shed of my brethren, and the eager pursuit after my own—as it appears this day to your grace and to all his majesty's honourable privy council." He then proceeded to a systematic vindication of his attempt, showing in broad, expressive characters, that utter perversion which the horrors of the times had created of rational notions on social and moral duty—a perversion which, disorganising and displacing all civilised sentiments of charity and citizenship, substituted for them the hatred and pugnacity of the original savage. He considered that he and the archbishop were two enemies, each seeking the

* State Trials, vi., 1215.

other's life, and entitled, like hostile soldiers, to lie in ambush for each other, and use every opportunity to slay. He proceeded thus:

"I, being a soldier, and having laid down arms, but being still up in my own defence, and having no other end nor quarrel with any man but according to my apprehension of him;" so arguing he shows that his war with Sharpe lay in this, that the archbishop endeavoured to destroy the Covenant, to which he and his brethren were bound by sacred ties; while he, on his part, levied a war of extermination against prelacy; "and I being a declared enemy to him on that account, and he to me in like manner—so I never found myself obliged, either by the law of God or nature, to set a sentry at his door for his safety; but as he was always to take his advantage, as it appeareth, so, I of him to take any opportunity offered. Moreover, we being in no terms of capitulation, but on the contrair, I, by his instigation, being excluded from all grace and favour, thought it my duty to pursue him on all occasions." He then, with perverse ingenuity, alludes to his own seizure, without any warrant, by Sir William Sharpe and the primate's menials, as a perfectly natural act of hostility, and just the counterpart of his own, showing that the two enemies lost no opportunity against each other. "I, not knowing him until five

or six of his brothers and his servants were laying fast hold on me, they being armed of purpose, desired I would excuse him, seeing what he had done was on his brother's account; which excuse I easily admitted, seeing that he thought himself obliged to do what he did to me, without law or order, in the behalf of his brother;—much more was I obliged to do what I did in the behalf of many brethren whose oppression was so great, and whose blood he caused to be shed with such abundance."

Mitchell, after having made his confession to the council, was conveyed into the Court of Justiciary for trial. Burnet says, that "the judge, who hated Sharpe, as he went up to the bench passing by the prisoner, said to him, 'Confess nothing, unless you are sure of your limbs as well as your life.'" Whether from such advice or not, Mitchell refused to repeat his confession in the Court of Justiciary. On this the privy council revoked the assurance of safety. The manner in which this revocation stands recorded on the council-books is important in history, as certain members of the privy council denied that any assurance of safety had been granted, and against one of them proceedings were maintained for perjury on the ground of this denial.

The only minute of the council which bears upon the matter, is dated 12th March, 1674. It first

states Mitchell's refusal to confess, and then contains the following narrative:

"But all haveing reteired, apart with one of the said committy he did then confesse upon his knees he was the person—upon assurance geven him by one of the committy as to his lyfe, who had warrand from the lord commissioner and councel to geve the same,—and did, thereafter, freely confess, before all the lords that was upon the said committy, that he shott the said pistoll at the said archbishop; and did subscrybe his confession in presence of the said committie, which is also subscrybed by them. And thereafter, the said Mr. James, in presence of the lord commissioner, his grace, and council, did renew and adhere to the said confession, both as to his accession to the rebellion, and the attempt foresaid, and acknowledged he made the said attempt because he thought the said archbishop had a hand in troubling and prosecuting those that were in the rebellion."*

The act of council then mentions the refusal of Mitchell to repeat his confession in the Court of Justiciary, and announces that he must be deemed to have forfeited the benefit of which confession was

* This, which is taken *literatim* from the MS. Record, agrees entirely in substance with the contemporary accounts, the accuracy of which has been often questioned.

a condition, and the law must be free to take its course.

We resume Mitchell's own account of his treatment, and follow him into the Court of Justiciary. He mentions, incidentally, a feature of that tribunal, so odiously recalling the half-fabulous annals of the Vehm-Gericht and the Inquisition, that it is difficult to believe it a true description of a British tribunal. He describes "the lords justiciaries obscuring themselves by putting their hands upon their faces, and leaning upon their elbows upon the table." Doubtless, the very event that brought Mitchell before them taught them how expedient it was that the executors of the odious laws that desolated the country should not be recognisable; but, surely, anything more humiliating to the position of a bench of British judges, than that they shrank from the eye of the accused, could scarcely be recorded. Equally revolting are the allusions to the torture. The ugly instruments stood near at hand, in the court-room. The accused still refusing to confess, the president points to them, and says, "Ye see what is upon the table before ye—I shall see if that can cause ye do it." To which it was answered, "By that torture ye may cause me blaspheme God, as Saul did compel the saints; you may, by that torture, cause me to speak amiss of your lordship—to call myself

a thief, a murderer, a warlock, and what not, and then panel me upon it. But if ye shall, my lords, put me to it, I hereby protest before God and your lordship, that nothing extorted from me by torture shall be made use of against me in judgment, nor have any force against me in law, or any other person whomsoever." He said, according to the odd logic which seems to have governed his actions, that whatever they fairly proved against him he would not deny; but "'I am so much a man—yea, and a Scotsman, that I never held myself obliged, either by the law of God or nature, or by the law of nations, to become my own accuser.' Then said my lord depute-treasurer to the preses, 'He hath the devil's logic, and sophisticates like him.'" They pointed to the boot, saying, "You see what is before you—say either yea or not;" but he remained unconfessed. He went to the torture, quoting Scripture vigorously in support of his tortuous logic, and dividing his discourse into parts of which, as a specimen, we may take the "secondly—my lord-advocate hath been hinting at the sinfulness of lying upon any account. It is answered, my lords, that not only lying is sinful, but also a pernicious speaking of the truth is a horrid sin before God, while it tendeth to the shedding of innocent blood, as witnesseth that of Doeg, Ps. LII. compared with

1 Sam. xxii., 29;* but what my lord-advocate hath forged against me is false, so that I am standing upon my former ground, viz., the preservation of my life and the lives of others, so far as it lies in my power, the which I am expressly commanded to do by the Lord of Hosts." The same pertinacious sophistication seems to have been ever at his command, for one of the witnesses at his trial said, that he "inquired at him how he or any man could be accessory to so impious an act as to kill a man in cold blood who had not wronged him; he said it was not in cold blood, for the blood of the saints was reeking at the Cross of Edinburgh."

Thus was he depicting, in tempting colours, the value of the history which he defied torture or persuasion to extract from him. In fact, Sharpe and his fellows were discontented with the brief, simple confession made to the privy council. They believed that Mitchell had a band of fellow-conspirators, towards whom they desired to find a clue; and such hints only excited their avidity. The torturing extracted nothing of moment, for the victim was released at an early stage of the infliction, by insensibility; long confinement having, by its own peculiar inflictions, greatly reduced the extent of his torturable strength. The expected value of

* See State Trials, vi., 1229; but this chapter of Samuel has not 29 verses.

the information to be elicited from him, may account for the long-protracted proceedings. He was apprehended in 1674; the torture was administered in 1677; it was not until the 7th of January, 1678, that, all efforts to extort a satisfactory elucidation being vain, he was finally tried for the offence committed ten years previously.

The indictment intimates that Mitchell had at one time professed to be a clergyman—he is called "one who professed to be of the reformed religion, and who did profess to be and serve as a chaplain in several families." The indictment, after stating how "God of his goodness having preserved the archbishop, whom you intended to murder, you did by the said shot grievously wound the Bishop of Orkney, to the great hazard and danger of his life;"—goes on to argue, in a fashion which the Covenanters would probably hold to be a solemn mockery in the abettors of the Duke of York, that the attempted assassination was an imitation of the devices of Popery, and "that it cannot be instanced that any of the Protestant religion was guilty of any attempt upon the ground of religion; and that the worst of men being ashamed to commit such villanies—for covering of the same and for their security, doth take the opportunity of darkness and solitude, in corners and solitary places. Your malice was so implacable, that you were prodigal of your own life,

to be master of the life of the said archbishop; and in the high street of Edinburgh, and in the daylight and in the face of the sun, and before many witnesses near or at a little distance from the said coach, where you could not but expect to be presently seized upon, you did devote yourself and did adventure to commit the said most villanous and wicked attempt."

At this trial occurred a great scandal against the Scottish statesmen of the reign of Charles II. Whether certain corporeal inflictions be just punishment or tyrannical persecution, may be a matter of dispute; but a lie, told for the purpose of procuring a conviction in a court of justice, is denounced by every system professing to be a code of morality. To get a confession and a betrayal of accomplices from Mitchell, had now become hopeless. All that could be accomplished was the conviction of the solitary victim. But if there were any who could identify the man who, in open day, had fired at two prelates in the chief street of the capital, there were none who *would* do so. The only means, therefore, of convicting Mitchell was by making evidence of his confession before the privy council. It would be awkward, however, to adduce the condition of safety with which that confession was accompanied. That condition was inserted in the minutes of the

privy council, as they have been quoted above; the minute still bears the mark of dirty fingers, as if Wodrow, and other sympathisers with the suffering remnant, had curiously manipulated and examined it when the transactions of the secret conclave came to light after the Revolution. Mitchell was defended by George Lockhart—a brave, eloquent man, whose knowledge as a lawyer, and formidable capacity in using it, endowed him with the safety of feared and respected power even in those terrible times, and elicited from Sir George Mackenzie, the high Tory and crown lawyer, a few expressive sentences of praise on the democratic supporter of Presbyterianism. Lockhart demanded that the minutes of the privy council, as they are quoted above, should be produced in evidence. The demand was overruled. A little document, containing the confession in simple terms, was given in. The statesmen who had received it attested it as the confession of Mitchell. Each of them was then cross-questioned on the accompanying condition, and each flatly denied that it had been conceded.

Thus the Earl of Rothes, the chancellor, being interrogated, "depones that he did not at all give any assurance to the panel for his life; and the panel never sought such assurance from him." Hatton, the next witness, seemed somewhat to have

evaded the question: "Depones he was present when Mr. James Mitchell made that confession, and his lordship first heard him make it verbally, and then he saw him subscribe it also; and at that time there was nothing spoken of any assurance; but when the panel was asked by some of the committee upon what account he committed that fact, at first he seemed unwilling to answer, but thereafter said it was because the bishop was an enemy to the good people, or godly people, in the west." The burly and brutal Duke of Lauderdale, less circuitous than his brother, simply stated that "he heard no assurance given to him, and did not give him any assurance, nor gave commission to any others to give him any assurance." The next witness is "James, Archbishop of St. Andrew's." He alone identified the prisoner. His evidence, recorded with a lumbering incrustation of titles, was—"Depones, his grace saw him at the council-bar, in presence of his majesty's commissioner and the council, acknowledge his confession made before the committee, and heard him adhere thereto and renew the same; and there was no assurance of life given him, nor any sought for him then. Depones that his grace himself did never give him any assurance, nor give warrant to any others to do it; only he promised, at his first taking, that if he would freely confess the

fault, and express his repentance for the same at that time, without further troubling judicatories therein, his grace would use his best endeavour to favour him." His denial of the promise of safety was adduced against Sharpe by those who murdered him on Magus Moor. Mitchell was convicted, and suffered the usual fate in the Grass-market.*

This trial was peculiar, from an attempt subsequently made to arraign one of the statesman-witnesses for perjury, on account of his testimony. This somewhat courageous effort was made in parliament by a member, William Noble, of Dunnotter, who brought his charge, in imitation, apparently, of an English impeachment, before the lords of the articles, in 1681. He did not require to demand the production of the council-record, having in his possession a letter written by Hatton, in which the assurance of life was distinctly mentioned. The lords of the articles dismissed the arraignment, but the object of the accuser was so far gained, in the discussion of conduct that could ill stand inquiry. That dishonour which is more fatal to a statesman than profligacy or cruelty, was proclaimed; and it was remembered and spoken of, even by members of the council, that the lord chancellor had garnished the proposal for sparing Mitchell's life with an indecent joke.

* 28th July, 1681.

The trial of Mitchell shows that the fate of Archbishop Sharpe, so well known to all who read the history of the period, was not an incidental outrage, but the realisation of a deep-felt hatred, which had been working its way, for many years, into the habits of a people not naturally bloody or treacherous. One requires to be in the confidence, as it were, of the popular mind of the period, through the perusal of letters and private diaries, to form a just conception of the light in which the head of the Church was viewed by the people. It was not merely that he was a selfish, haughty, tyrannical man; from such an early estimate he came to be looked on as something superhumanly wicked—a walking embodiment of the great spirit of evil. The people at large, including the Presbyterian clergy, believed in many dark tales of diabolical agency, in which Sharpe was depicted busy with his fellow-demons. A few of these are scattered over Wodrow's note-book. The archbishop is described as one day busy in the privy council, getting up prosecutions against the Pentland rebels. He desires a certain paper, necessary for making out a conclusive case, but he has left it behind him in his cabinet in St. Andrew's. He sends a servant for it, directing him to the particular cell in the cabinet where it is to be found. The man left

Edinburgh at ten o'clock of a summer morning, and was in the archiepiscopal palace about four o'clock in the afternoon.

"When he opened the closet-door, and looked in, he saw the bishop sitting at a table near the window, as if he had been reading and writing, his black gown and tippet, and his broad hat—just as he had left him at Edinburgh, which did surprise the fellow at first, though he was not much terrified; for being of a hardy, frolic temper, or a little hollowed, as we call it, he spoke to him merrily, thus :—'Ho, my lord, well ridden, indeed! I am sure I left you at Edinburgh, at ten o'clock, and yet you are here before me. I wonder that I saw you not pass by me.' The bishop looked over his shoulder at him, with a sour and frowning countenance, but spoke not a word; so that the footman runs down stairs, and tells the secretary, or chamberlain, that the bishop was come home. He would not believe him. He averred he saw him in his closet, and that he was very angry; and desired the chamberlain to come up-stairs, and he would see him likewise. So they came both up-stairs; but before they were fully up, they both saw the bishop, standing upon the stair-head, staring upon them with an angry look, which affrighted them in earnest."

The vision, however, vanished. The serving-

man found the paper, and returning with it to Edinburgh, there saw the bishop, as he had left him, and told the story of the doppel ganger. "Upon which the bishop, by threats and promises, enjoins him secrecy."* There is a mystery and pleasant undefinedness in this story; another which stands beside it is more distinct. The archbishop is presiding at the trial of a witch, and is, as usual, for harsh measures. Janet, the accused, says she is not a friend, but an enemy, of the powers of darkness; and hints that it would be well were others equally hostile to them. Driven at bay, we are told that "she only dropped one word to the bishop. 'My lord,' says she, 'who was you with, in your closet, on Saturday night last, betwixt twelve and one o'clock?'" Upon which the bishop changed his countenance, and turned black and pale, and then no more was said. When the council rose up, the Duke of Rothes called Janet into a room, and inquired at her privately who that person was who was with the bishop? She refused, at first; but he promising, upon his word of honour, to warrant her at all hands, and that she should not be sent to America, she says, "My lord, it was the mickle black devil."†

After the murder, some trinkets, found on the old

* Analecta, i., 104. † Ib., 105.

man's person, were deemed to be cabalistic or magical symbols; and it was heard, with horror, that among them was a bee, enclosed in a box—doubtless, the lost man's familiar spirit.

The attempts to bring to justice the archbishop's murderers cannot be adduced under the head of "Proceedings against the Covenanters," as persecution on purely religious grounds. But this cluster of events was the climax of the war with the Covenanters; and the very measures which caused and followed it, became inextricably interwoven with the system of religious persecution. This created the black spirit of vengeance which caused the deed, and it tried to avenge it on those who had no further concern with its perpetrators than the possession of the same religious creed. The unhappy determination to block up every outlet for over-heated opinions or impracticable enthusiasm, was worked out under the shadow of investigations regarding the murder; and it was not sufficient that one who was an object of suspicion had no apparent or possible concern in it—he must be driven by question after question, until, if he had a particle of spirit or honesty in him, he must say something offensive. It was not enough that he abhorred the murder or the principles which suggested it; he must go further back to the root of evil opinions, and abhor abstract

fundamental doctrines of many complex kinds, under pain of being counted something like an accessary to assassination. It may be interesting to notice the shape in which this memorable historical crime is described in the indictment against Hackston of Rathillet.

"Ye and your accomplices did, upon the 3rd day of May, 1579, cruelly, sacrilegiously, and inhumanly assault the said archbishop, when he was travelling securely in his own coach to St. Andrew's, within two miles of the said city; and upon Magus Moor did most wickedly and furiously discharge several shots of pistols, carbines, hakbuts, and muskets, upon the said coach, within whilk the said archbishop and his daughter were for the time; and his grace having opened the coach door, and came forth to you, and falling down upon his knees begging mercy or time to recommend his soul to God, and pray for you his murderer—so cruel, inhuman, and sacrilegious were ye, that, without pitying his grey hairs or the shrieks of his weeping daughter, or respecting his character or office, ye did most furiously and cruelly give the said archbishop many bloody, mortal, and cruel wounds on his head and other places in his body, and left him dead and murdered upon the place in a most cruel and lamentable manner."*

* State Trials, x., 813.

The paragraphs which follow contain the statement of particulars whence guilt of the murder is inferred, and the first items deserve attention, as they are extremely characteristic of the sweeping principle on which the penal laws were then administered. "And in token of your guilt of the foresaid horrid, impious, and sacrilegious murder, ye did not compear in the town of St. Andrew's, upon the 13th day of the said month of May, 1679, nor in the town of Cupar upon the 16th day of the said month," &c. This formidable inference arose out of a proclamation by the privy council. It spoke of the horrid assassination and parricide, as a deed to "spread horror and amasement in all the hearts of such as believe that there is a God or a Christian religion — a cruelty exceeding the barbarity of pagans and heathens, amongst whom the officers and ministers of religion are reputed to be sacred, and are, by the respect borne to the Deity which they adore, secured against all bloody and execrable attempts." Suggesting means for apprehending the assassins, the proclamation proceeds to state, that "in respect there is a company of vagrant and skulking ruffians, who, to the great contempt of all government, do ride through this our kingdom, killing our soldiers, deforcing such as put our laws in execution, and committing such horrible murders, who

might be easily discovered, if all such amongst whom they converse did, according to their duty, endeavour to apprehend them or give notice where they haunt or resort."* The proclamation proceeding to notice that several of the assassins were known to belong to the shire of Fife; special days and places are appointed, at which the inhabitants within a certain surrounding area are to assemble, to be examined by the sheriff, "with certification to such of the said tenants, cottars, servants, and others aforesaid as shall be absent, they shall be reputed as accessory to the said crime—and the masters if they produce them not, or if hereafter they shall harbour any who do not compear, they shall be reported favourers of the said assassination."

A further effort was made, on this exhaustive system, to get at persons who might be implicated in the crime. On a day appointed, all the males upwards of sixteen years old were to be assembled in each presbytery. The clergy were to be present, and mark off all those who were not reputed attenders of the Established Church. Each one of these was to be compelled to show, by sufficient testimony, how he was occupied between the hours of ten o'clock in the morning and three in the afternoon on the day of the murder. "That such as

* State Trials, x., 824.

cannot prove a good account of themselves in manner foresaid, be secured, and their goods seized and secured till the issue of their trial: that such as shall be absent the said day, be holden as probably guilty of the horrid act," &c.

It is characteristic of the war of utter extermination between the people and the law, that, with all these stringent measures, and while the country swarmed with soldiers, the main perpetrators of the murder were never caught, though their deed was, in the words of the proclamation, rendered remarkable "by the unmasked boldness of such as durst openly, with bare faces, in the midst of our kingdom, at mid-day, assemble themselves together to kill, on our highway, the primate of our kingdom." The assassination was witnessed by several people; the men engaged in it were well known; and there was a party of soldiers so near, that they might have seen the horsemen following the lumbering coach, or heard the shots. That, under all these difficulties, the murderers should have escaped, was of course attributed to the special intervention of Providence shielding those who were executing God's righteous judgment upon Judas. Hackston, of Rathillet, was the only man connected with the trial who was seized; and he was a negative accomplice, looking on apart, half shrouded in his

cloak, and stoically contemplating that act of solemn retribution, in which he declined to embrue his own hands, but which he would deem it sacrilegious to interrupt. Sharpe, recognising him as a gentleman of good descent and liberal education, appealed to him for protection; but the only assurance he received was, "I will not lay a hand on you." It may be interesting to have the pen-and-ink sketches of the party, given in the evidence against Hackston. He was himself described as "a tall, slender man, black haired and black visaged, who had a brownish grey horse and a velvet cap; and for arms, a carbine, holster-pistols, and a broadsword." John Balfour, of Kinloch, or Burleigh, was "a laigh (or short), broad man, round, ruddy face, dark brown hair." He was accompanied by his relation, "George Balfour, in Gilston, who is a broad, brownish sett man, black curling hair, lean faced, who had a white horse, and was armed with two side-pistols and a sword." Another of the party, Andrew Gillan, weaver, in Balmerinoch, was characteristically described as "a little, broad, black man, broad, curling, bushy beard, who rode upon a white horse—who had three side-pistols on his right side, and ane sword." This witness drew his sketches with discrimination, whether they were quite accurate or not. He next describes the "two Henry-

sons," who are "young, slender men—both young, fair men; the youngest, fairest and tallest, and the eldest slenderest." These sketches seem embodied types of the characters which the persecution had made of the men of the period: the dark ruffian, who genially took to bloodshed as his natural calling; and his gentler coadjutor, driven into the companionship of evil by his warm sympathies and overwrought enthusiasm.

The most interesting member of that band, however, if not of the whole Scottish army of martyrs, was Hackston, of Rathillet—a man made for better things than brutal murder or stolid fanaticism. As we sometimes see a fine genius glimmering through the overwhelming down-pressure of degraded habits, and think what it might have been had it not been overwhelmed in the moral ruin—this man, in the fierce fanatic and the abettor of murder, yet affords glimmerings of a character that, in less unhappy days, might have produced the accomplished statesman, the powerful rhetorician, or the brave and honoured military leader.

The Presbyterian biographers speak of him as having been dissolute in his youth—a gay deceiver, with high qualities of body and mind—with fortune and social position, all turned to evil ends. Their previous immorality does not, certainly, make men

less ardent in their new vocation when they become fanatics; but the biographers of those whose sanctity has assumed the deep and formidable character of Hackston's, are apt to complete the antithesis of the picture, by making out their early immorality to have been on an equally great and sometimes equally dangerous scale—one of the many elements in which the Bollandist Lives of the Saints and the covenanting martyrology are very like each other. While he was in confinement, he wrote a simple and soldier-like account of his flight, his attempt to defend himself, and his capture—to which it is impossible to refuse a general belief. The party had taken to the wilds, after the affair of Bothwell Bridge, and slept all night on a moor, sending their scouts to endeavour to ascertain their position. "One day," he says, "after we had gotten some meat, we came to a piece of grass and lay down, and presently we were all alarmed that they were upon us; and so, making ready, we saw them coming fast on—and that about three or four hours in the afternoon: and each one resolving to fight, I rode off and found a strength for our advantage, and drew up quickly eight horse on the right hand with R. D., and fifteen on the left hand with me, being no more; the foot not being forty, and many of them ill armed, in the midst. The enemy advanced fast—about one hundred and

twelve, well armed and horsed—who sending about twenty dragoons on foot to take the wind of us, we sent a party on foot to meet them, and the rest advanced immediately after, when our horse fired, and wounded and killed some, both horse and foot. Our horse advanced to their faces, and we fired on each other. I being foremost, and finding the horse behind me broken, I then rode in amongst them, and went out at a side without being wounded. I was pursued by several, with whom I fought a good space; but at length I was stricken down, with three on horseback behind me, and receiving three wounds on the head, and falling, submitted to them. They gave us all testimony of brave, resolute men." Dalyel, whose Russian training made him more consistently savage than his coadjutors, threatened, he said, to roast him.

Even in the formal proceedings of the privy council and Court of Justiciary, the usual terms of righteous abuse, with which all allusion to the ordinary uneducated fanatics was decorated, is suppressed or modified towards Hackston, as if in courtesy to his talents and social reputation; and yet he bearded them in a manner that might have irritated more gentle beings than Rothes and Lauderdale, flinging back in their teeth the accusation of murder—denouncing them as the slayers of God's people—the

inspired of the devil, and the instruments of his malignity, against whom he, David Hackston, denounced the wrath of God. It is curious to see the symptoms of his retaliatory conflict gleaming through the formal minutes of the Justiciary Court. His refusal to plead is entered in these terms: "He refused to answer concerning the murder of the late Bishop of St. Andrew's, and says the causes of his declinement are, because they have usurped the supremacy of the Church, belonging alone to Jesus Christ, and have established idolatry, perjury, and other iniquities; and in prosecuting their design—in confirming themselves in this usurped right—have shed much innocent blood. Therefore the said David, adhering to Christ, his rights, and kingly office over the Church, declines them that are his open enemies and competitors for his crown and power, as competent judges; refuses, as formerly, to sign this his declaration, dated from his own mouth, whereupon his majesty's advocate takes instruments and requires the commissioners of justiciary to sign the same."*

We may imagine how great a torrent of truculent matter was uttered, when so much of it was permitted to pass through the formal sluice of the official record. We have many other and more exuberant accounts of this discussion;—as, for instance, in

* State Trials, x., 833.

the work called "The Cloud of Witnesses," which says, he "told them they were all bloody murderers, for all the power they had was derived from tyranny; and that these years bygone, they have not only tyrannised over the Church of God, but have also grinded the faces of the poor, so that oppression, bloodshed, perjury, and many murders, were to be found on their skirts." The Marquis of Montrose, giving testimony before the Justiciary Court as to the admissions made by Hackston to the council, said that he "refused to answer whether the archbishop's murder was a murder, but said to the council that he wished that God, by a stroke of his justice, might decide betwixt the council and him, which of them were the greatest murderers." According to "the testimony of that worthy gentleman, David Hackston, of Rathillet," he said, in answer to the same question, that "he thought it no sin to despatch a bloody monster." It is said in the same document, that when the privy council wished to push him further in the personal application of his doctrine, they received an answer which showed that fanaticism had not entirely burnt out of him the capacity to come forward like a man of this world. Being asked, "if he were at liberty and had the power to kill any of the king's council, and murder them as he did the Bishop of St. Andrew's, whether he would do it,

yea or not?" he said "that he had no spare time to answer such frivolous and childish questions."

On the royal authority he was, however, according to this account, sufficiently explicit. He is asked "what he would declare as to the king's authority;" and says, "that authority that disowns the interest of God, and sets itself in opposition to Jesus Christ, is no more to be owned; but so it is—the king's authority is now such; therefore it ought not to be owned." One of those men whom he hated most of all, the bishops, seems to have borne his rough handling somewhat meekly. "Being interrogated by the Bishop of Edinburgh what he would answer to that article of the confession of faith, that difference of religion doth not make void the magistrate's right and authority, he answered, he would not answer any perjured prelate. The bishop replied, he was in the wrong to him, because he never took the Covenant; therefore he was not perjured and so deserved not that name."

Hackston, however, was not the man to ward off discussion by a petulant remark, or evade his testimony. The question was well put, and might have staggered one less self-assured. But he shattered the difficulty by that strongest of all logic—I am right and my opponent wrong—or as it may be other-

wise expressed, I am the representative of God, and you are the servants of the devil. When pressed on the conformity of his principles and actions with the Covenant, in its acknowledgment of the authority of the civil magistrate in matters temporal, he said: "That question was answered long ago by the solemn league and Covenant, which binds us only to maintain and defend the king in the defence of the true religion; but now the king having stated himself an enemy to religion, and all that will live religiously, therefore it is high time to shake off all obligation of allegiance to his authority."

He told the council that he was prepared to seal his testimony, not only with his blood, but with all the tortures they could imagine. He had the premonitions of his fate as he was conveyed to Edinburgh after his capture, and describes his entry by the foot of the Canongate, where the magistrates were, "setting me on a horse, with my face backward, and the other three bound on a goad of iron, and Mr. Cameron's head carried on a halbert before me, and another head in a sack, which I knew not, on a lad's back; and so we were carried up the street to the parliament, close where I was taken down, and the rest loosed—all was done by the hangman." The martyrologists of the Covenant luxuriate in the horrors of his protracted death.

That there should be mercy for such a person, even in a much more humane administration of justice, was out of the question. It was as necessary to slay him, as it is to amputate the fractured and mortifying limb. But, looking back at the beginning of these miseries, one can see a time when, if statesmen had not been drunk with success, and reckless of consequences, if they had avoided needless blood-letting, and set themselves conscientiously to govern the Scottish people according to their nature, the history of the country must have been so different from what it was, that Sharpe, at the time of these tragic events, might have been a powerful and somewhat respected Churchman, not without some shred of Episcopal decoration; while Hackston, of Rathillet, might have been a loyal scholarly gentleman, drinking his reverend friend's health, and making speeches for the preservation of the happy Constitution in Church and State.

While such were the bloody scenes developed in the temporal part of the contest, as it might be termed, the spiritual leaders of the people were driven, by the diabolical influence of persecution, to enchain them to a fanaticism which grew ever darker as the contest went on. The Covenant, and other early fundamental charters of Presbyterianism, were found insufficient to satisfy the stern demands of these

men; they must have a new testimony, more distinctly marking out the people of God, and denouncing the enemy. At the head of this movement was Mr. Donald Cargill, one of those whose purposes, like steel hardened in the fierce fire of persecution, were of a relentless firmness, calculated to inspire in their panegyrists of later and gentler times a kind of awe-stricken admiration. Wodrow tells us, that for twenty or thirty years before his death, he "was never under doubts as to his interest—and the reason was made known to him in ane extraordinary way." In his youth, we are told that "he was naturally hasty and fiery;" that "he fell into deep exercise," and, beset by doubts and difficulties, attempted to commit suicide. Having repeatedly encountered obstacles to his intentions, "he takes on a resolution to take a time or place where nothing could stop; and goes out early one morning, by break of day, to a coal-pit; and when he comes to it, and none at all about, he comes to the brink of it to throw himself in; and just as he is going to jump in, he heard ane audible voice from heaven, 'Son, be of good cheer, thy sins be forgiven thee,' and that stopped him; and he said to my father, after that he never got leave to doubt of his interest," meaning, of his certain salvation.* When sown in soil of this character,

* Analecta, i., 69.

it might be predicted what crop the dragon's teeth of persecution would bear.

Cargill was early among the hunted; but he appears to have been a man of untiring restlessness and agility, who was not to be easily caught. On the 3rd of June, 1680, information was brought to the proper officers that he and a companion named Hall were lurking in a small tavern at Queensferry. When an attempt was made to capture them, they offered a stout resistance, and Cargill escaped with many severe wounds, which did not prevent him from preaching a fierce sermon to an excited multitude, among the moors, so soon as the pursuit slackened sufficiently to let him stop and take breath. On the person of Hall there was found a document attributed to Cargill, which became known as the Queensferry Covenant. It does not seem to have been widely dispersed, or to have become a bond of union; and wise statesmen would have put it aside and studied it, watching external manifestations of its existence or influence, before taking any public proceedings about it. But this was not the policy of the still reckless men of that age. They seemed to rejoice at the discovery of something so violent and denunciatory, and to indulge in a hope that a large class would be found implicated in it, and liable to punishments and for-

feitures. There was a hot pursuit after Cargill and his coadjutor, Cameron—who owes it to that pursuit, and his apprehension and cruel death, that a small remnant of Cameronians yet rally round his name. But not content with striking at the sources of the manifesto, the crown brought it up against persons charged as adherents of its principles, delighted with such an opportunity of proving that the king and the government had a large body of irreconcilable enemies. The document, it is true, was stringent and bitter enough. Like all the covenanting manifestoes, it had, with a good deal of circumlocution, the stern singleness of purpose pertaining to an infallible announcement of the will of the Deity. One of its articles may be taken as a specimen of its pervading tone:

"We shall endeavour to our utmost the extirpation of the kingdom of darkness, and whatsoever is contrair to the kingdom of Christ, and especially idolatry and Popery, in all the articles of it, as we are bound in our national Covenant—and superstition, will-worship, and prelacy with its hierarchy, as we are bound in our solemn league and Covenant; and that we shall, with the same sincerity, endeavour—God giving us assistance—the overthrow of that power that hath established that prelacy and erastianism over the Church, and exercises

such a lustful and arbitrary tyranny over the subjects, seeking again to introduce idolatry and superstition in these lands, contrary to our Covenants; and, in a word, that we shall endeavour the extirpation of all the works of darkness, and the relics of idolatry and superstition—which are both much enlarged in our times—and execute righteous judgments impartially, according to the word of God and degree of wickedness, upon the committers of these things—but especially blasphemy, idolatry, atheism, sorcery, perjury, uncleanness, profanation of the Lord's-day, oppression, and malignancy; that being thus zealous for God, he may delight to dwell among us!"

Those who had the misfortune to differ in opinion with the adherents of such a document, would probably meet with little mercy in the execution by them of righteous judgment, according to God's word and the degree of wickedness. And it must be admitted that, so far as the fabricators of such a declaration were concerned, there has scarcely been a government in any country that would not be incensed by it. It did not shrink from naming the monarch as the head and source of all the evils. It spoke of the "hand of our kings" being against the purity and power of religion and godliness, and degenerating from virtue into tyranny and rejection

of God's will; "so that it can no longer be called a government, but a lustful rage, exercised with as little right reason, and with more cruelty, than in beasts; and they themselves can no longer be called governors, but public grassators and public judgments, which all men ought as earnestly to labour to be free of, as of sword, famine, or pestilence raging amongst us."

This was accompanied with another document, bearing a title in which the high and denunciatory assumptions of its adherents chime strangely with the statement of their existing lowliness. It was called "The declaration and testimony of the true Presbyterian, anti-prelatick, and anti-erastian persecuted party in Scotland." It was, if scarcely so sweepingly self-assured in its claims of infallibility, more personally offensive to the royal brothers even than the Queensferry Covenant. It stated as among the causes of God's controversy against his people, that they had not disowned the king, and men of his practice, "as enemies to our Lord and his crown, and the true Protestant and Presbyterian interest in these lands, our Lord's espoused bride and Church;" and the document proceeded very emphatically to make up for such an omission. This paper was solemnly adopted by a few men met together in arms, under the auspices of Cameron, and received,

from the place where they met, the name of the "Sanquhar Declaration."

Soon after the discovery of these documents, in September, 1680, Cargill, who had led a life of hidings and narrow escapes, of fighting and preaching, addressed a large assembly in the Torwood. There, choosing for his text, 1 Corinthians, v., 13, —"But them that are without, God judgeth. Therefore put away from among yourselves that wicked person,"—he proceeded solemnly to the excommunication of all his enemies, beginning with Charles II., thus: "I, being a minister of Jesus Christ, and having authority and power from Him, do, in His name and in His spirit, excommunicate Charles II., king, &c.; and that upon the account of these wickednesses: for his high mocking of God, in that, after he had acknowledged his own sins, his father's sins, his mother's idolatry, and had solemnly engaged against them in a declaration, &c.; he hath, notwithstanding of all this, gone on more avowedly in these sins than all that went before him," and so on. After enumerating all his "apostacies and perjuries," he descended into the too well-established licentiousness of the king's private life, with more explicit distinctness of phraseology than modern readers are sometimes accustomed to. Not quite content with thus emphatically denouncing the real scandals of the palace,

he brought against the royal brothers still blacker charges than history has thought fit to preserve as worthy of credit.

Cargill proceeded, leisurely denouncing each of his enemies; and there is, with considerable over-colouring, something not far from a true picture in his reasons of denunciation in each instance—as, for example, in that of Lauderdale:

"Next, I do, by the same authority, &c., excommunicate John, Duke of Lauderdale, for his dreadful blasphemy—especially that word to the Prelate of St. Andrew's, 'sit thou at my right hand, until I make thine enemies thy footstool;' his atheistical drolling on the Scriptures of God; scoffing at religion and religious persons; his apostacy from the Covenant and Reformation, and his persecuting thereof, after he had been a professor, pleader, and pressor thereof; for his perjury in the business of Mr. James Mitchell:" all followed by an expressive description of his private vices.

Cargill felt that his proceedings in this matter were not entirely free of technical difficulties. Excommunication by an authorised judicatory, being a solemn measure, productive to those on whom it is inflicted of awful consequences, ought to be awarded with judicial solemnity, and after such necessary preliminaries as may enable the accused to exculpate

himself. It was beyond denial, that this condemnation of the king savoured of haste, if not of injustice, as he ought to have had an opportunity of defending himself before the awful tribunal which condemned him. Conscious of such objections, after he had finished the sentence, he pronounced an elaborate vindication of it, commencing thus: "I think, none that acknowledge the word of God, the power deputed to the Church, and the reason and nature of that power, can judge this sentence to be unjust. The pretence of its being informal, without warnings, admonitions, &c., is fully answered in that those men have placed themselves above the admonitions of ministers, have repelled all due warnings, and wickedly put to cruel deaths the servants and ministers of Christ who have with freedom and boldness adventured to give them warnings and admonitions, and shut up all access from us that remain to do the like; and as for proof of the facts I have here charged upon them, it needeth none, the deeds being notour and known, and the most of them such as themselves do avow, and, to their shame, boast of. And as the causes are just, and such as for which the ministers of Christ have, in all ages, proceeded to the like sentence; so, it being now done by a minister of the Gospel, and

in such a manner as the present circumstances of the Church of Christ, with respect to the present cruel persecutions, will admit, the sentence, likewise, is undoubtedly just also. And there are no powers on earth — either of kings, princes, magistrates, or ministers of the Gospel — can, without the repentance of the persons openly and legally appearing, reverse these sentences on any such account."* All this may seem so grotesque and preposterous, that some readers will hardly believe that one capable of putting these sentences together, could have done so for any other than some burlesque purpose. But it was sober truth, in so far as earnestness is concerned. No judge pronouncing sentence, no great ecclesiastical dignitary performing his official function, could ever be more serious than Cargill; for if he possessed not the authority of poor crawling man for what he did, had he not the command of the Lord of Hosts?—was he not also vested with the superhuman power of enforcing it—without which, that command would not have been given? According to a credible account of these transactions,† he preached on the ensuing Sunday at Fallowhill, in the parish of

* State Trials, x., 874-6.

† Crookshank's History of the Church of Scotland, from the

Livingstone, and in his sermon said: "I know I am, and will be, condemned by many, for what I have done in excommunicating these wicked men; but, condemn me who will, I know that I am approven of God, and am persuaded that what I have done on earth is ratified in heaven."

Possibly, a reader of these extravagancies might call to recollection vaticinations of street preachers, passed by him in his homeward journeys from the social board, to which they have a considerable resemblance. But between the two there is all the difference of the fundamental and the superficial. Wherever people insane, or on the borders of insanity, exist, there are ridiculous exhibitions with solemn names. Those who develop them are a very small number, living in a fantastic world of their own. They scarcely clog the ordinary revolving-wheel of existence—the surrounding world looks at them with grave pity—the passing policeman lets them alone, unless they make an obstruction. But in Cargill's time, long years of ferocious

Restoration to the Revolution. The historian states, that it is not his province "either to condemn or vindicate" them; and then proceeds: "Had not the persons against whom the sentence was pronounced, been guilty of all that was laid to their charge? Was not Mr. Cargill an approved minister of the Gospel? Can it be said that kings and princes are not subject to the censures of the Church?" II., 108.

oppression had driven the madness into the heart of the people. They were not looking at a fantastic farce, but were ready to fight for the arguments addressed to them by the preacher, who, in his turn, bore a death of protracted torture in justification of what he said to them. Honest Wodrow found himself somewhat perplexed in dealing with this matter of Cargill. Living under the peaceful supremacy of Presbyterianism after the Revolution, he was not disposed to abandon any of the spiritual prerogatives assumed by the pastors of his own persuasion; and yet, flourishing under a government which gave him his own way, and being a man of tolerably cautious walk in life, with much theoretical partiality towards religious martyrs, and much practical reliance on the Duke of Argyle and other powerful statesman of his day, he did not feel himself called on to record his entire approbation of Cargill. If, however, the belief that a miracle is done for a human being, be a testimony in favour of his acts, Wodrow has afforded that testimony. He describes the hunted prophet caught at last by a party of soldiers, and brought in great triumph into Glasgow, where multitudes came to gaze on him. Thither, among the rest, came the archbishop's factor, named John Nisbet, "an hater of godlyness and the truly religious, a besotted

druncard and mocker at piety." "This profligate wretch," says the historian, "addressed himself to Mr. Cargill in a way of mocking, and said: 'Mr. Donald, will you give us one word more.'" This, it seems, was a sarcastic allusion to an iterative habit of Cargill in his "pathetic, serious way of preaching." Being a hard hit, it behoved to be effectually answered by a shaft from Cargill's peculiar quiver; and so Wodrow solemnly tells us what follows: "Mr. Cargill looked on him a little with regret and sorrow, and then addressed him thus: 'Mock not, lest your bands be made strong; the day is coming when you shall not have one word to say, though you would.' This came very shortly to pass. Not many days after, the Lord was pleased to lay his hand upon that ill man. At Glasgow, where he lived, he fell suddenly ill, and for three days his tongue swelled; and though he seemed very earnest to speak, yet he could not command one word, and died in great torment and seeming terror."*

* History, iii., 279. In Wodrow's Note-Book there are many such anecdotes, in which a sneer on the qualities or capacities of any gifted clergyman, is sure to be followed by a signal judgment called down by his denunciations. Wodrow generally appends to these instances, by way of warning, the apposite scriptural precept: "Touch not his anointed, and do his prophets no harm." One of these judgments is peculiarly curious. There was a powerful popular preacher, called David Williamson, on whom was made the song, well known in Scotland, of "Dainty Davie,"

It was not difficult to find sufficient materials for a charge of treason against Cargill and his companions; for they had not only issued their formidable denunciations, but had assisted in several skirmishes against the royal troops. There is, however, in the indictment, a peculiar and significant feature. The time was seen to be approaching, when those statesmen who were still to bask in the sunshine of royal patronage, must add to their other services that of becoming Roman Catholic. Some supple minds were already practising a little pliancy. Others, of more rugged nature, who had lent themselves cheerfully enough to the forfeitures and persecutions of the fanatics, were bracing themselves against compliance. To show beforehand their determination, it became a favourite

in commemoration of an act of scandalous gallantry which recommended him to the sympathising applause of Charles II. "I am well informed," says Wodrow, "that Mr. David Williamson when he was, a little after the Revolution, supplying at Aberdeen, was much hated by the Jacobites and Episcopals there who put all the obloquy and affronts upon him they could. Particularly on Sabbath, when he was going to preach, they hounded out a poor profane man to meet him in the public street, and sing and dance on the Sabbath. Whether he had a fiddle playing, also, I do not mind; but the tune he sang, in dancing before him, was 'Dainty Davie.' Mr. Williamson was grieved at the profanation of the Sabbath, and said to somebody with him, 'Alas! for that poor man—he is now rejecting the last offer he is ever to have of Christ.' The wretch came not to church, and before night died in a few minutes."—Analecta, iv., 45.

practice with them to place the Covenanters and the Jesuits in the same category. So, in the indictment it is set forth, "You, the said Mr. Donald Cargill, have drunk in popish and jesuitical principles of exaucterating and killing of kings; and to make them the better take with your zealous and ignorant disciples, ye did most treasonably excommunicate your sovereign, &c., and ye have by the contagion poisoned and infected many poor and ignorant people, and has given occasion to popish emissaries to co-operate with you in this detestable and antichristian work."*

In his examination before the council, Cargill, as might be expected, boldly justified his acts, being restrained only by one consideration—that where they were of a purely spiritual character, such as the excommunication of the king, he felt himself not called on to answer regarding them to a temporal tribunal. "Being interrogate if he thinks the killing the Archbishop of St. Andrew's was a murder, declared that he cannot give his sense thereof; but declares that the Scripture saith, the Lord giving a call to a private man to kill, he might do it lawfully, and instances the case of Phineas and Jael."†

Cargill was executed, along with several others, and all left behind them solemn testimonies. The

* State Trials, x., 871. † Ibid., p. 884.

character of these documents may be easily inferred from their antecedents; but they were becoming, if possible, more exclusive and rabidly denunciatory of everything that in the slightest degree diverged from the protesting martyrs' little fagot of opinions. One of them, named William Cathel, seaman at Borrowstounness, not content with a denunciation of the severities of the time, went back to Cromwell's toleration, as being in point of principle quite as wicked; nay, he seemed to look upon those who endured the existence of toleration, and did not strive against it even unto the death, as persons whose wicked laxness in this matter was the cause of all the evils of the land. So, of twelve solemn testimonies which he bequeathed from the bloody scaffold, one is

"Against the unfaithfulness, connivance, and compliance of ministers and others, at the wickedness perpetrated in the land during the time of Cromwell's usurpation; for, as I am informed, few testified against him for trampling all the interests of Jesus Christ under his feet, in giving a toleration to all sectaries which was to set up their threshold beside Christ's, and their altars beside the Lord's, in a land covenanted to God, never to suffer the like, and lying under the same bonds."* It is,

* State Trials, x., 906.

perhaps, scarcely possible for unreasonable fanaticism to go further than this.

It is hardly within the province of these notices, to give an account of those trials which were directed entirely against political offenders connected with the Ryehouse plot, and the other insurrections of the period. It may be, however, noticed, in passing, as one of the later points of persecution, that profligate statesmen took advantage of the confusions and struggles of the times, to fall upon enemies whom they desired to strike or pillage. The fate of Argyle was a signal and appalling instance of these attempts. He had been restored to a great portion of the family estates—he had become a powerful courtier, holding several high offices. He was sunning himself unconsciously in his prosperity, when a plot was laid for his ruin. A test was appointed to be taken by men in office, which was of the most contradictory character; since it represented the contending elements, within the government, of those who were determined to stand by Protestanism, and those who were prepared to veer to Popery. Argyle offered an explanation of the principles on which he took this test, and found himself, to his astonishment, a prisoner charged with high treason, on a quaint old act against misinterpreting the king's statutes. It was not his

life, however, but his estates and offices, that were wanted, as the Duke of York afterwards magnanimously boasted; and though he was condemned to death, it is difficult to believe that the sentence would have been executed. It served more than one purpose, however. It drove the marquis to rebellion; and when he was apprehended, it rendered a trial and conviction for the rebellion unnecessary.

Against Campbell of Cessnock, who was understood to be a loyal man, proceedings were instituted, on the ground of mere casual remarks which he was said to have dropped to certain fugitives from the battle of Bothwell Bridge. If there was truth in a report mentioned by Fountainhall, the motives for this prosecution had not even the respectability of political hatred or religious intolerance, but were of the very basest order; "for it was reported, that Perth and the treasurer-depute, his brother, had assured the king and Duchess of Portsmouth that they had sufficient grounds whereon to forfeit Cessnoch, and that one of her sons by the king was to get the gift of his forfeiture."* A hard forensic battle was fought, to exclude the testimony of two witnesses by whom the accusation was to be proved. Campbell's counsel offered to show that they

* Historical Notices, ii., 521.

were bribed, and had a concocted tale to support. The objections were not sustained; but, whether from the revelations made by the counsel, or from some other cause, an occurrence took place which sends one ray of cheerful light into this dark history. It will be safer to take the account of the scene given by Fountainhall, a lawyer, who appears to have witnessed it, than that of Wodrow. It is said:

"This was about eleven o'clock at night; and when the king's advocate and that party thought all was fixed and sure, the Divine Providence, that overrules all from above, snatched the prey out of their teeth at this time." Then, describing the way in which the witnesses, Ingram and Craufurd, had been trained to their task, he says: "When it came to the finish, by a miraculous consternation, both Ingram and Craufurd did not remember that Cessnock had used any such expressions to them as were libelled," &c. "Upon this," he continues, "the mobile in the court gave a great shout, at which the king's advocate and justice-general stormed, and said these were very disloyal and indecent exclamations, the like whereof had never been seen in Scotland, but was Shaftesbury's way in England, in carrying on his business with the ignoramus juries, and to dash, terrify, and confound the king's evi-

dence and witnesses."* Those who had set their hearts on his estates, however, were not to be disappointed, and they carried a forfeiture against him in Parliament.

While the more remarkable trials of Covenanters are to be found in the comparatively long reign of Charles II., the sword was by no means sheathed at the accession of his brother. Although, in the course of his projects for the accomplishment of ulterior ends, King James had to relax the persecuting laws, there is no doubt that he was a dark and obdurate fanatic, who would have made a Donald Cargill had he been driven to the mountains, or a Charles IX. had he reigned in France on St. Bartholomew's eve. During his administration in Scotland, he had instigated many of the harshest measures; and there are grounds for believing in the truth of that revolting peculiarity attributed to him by Burnet, who says he enjoyed being present at the infliction of torture, and readily superintended the operation when the other members of the privy council sought excuses for retiring. A certain zealous Covenanter, John Shields, wrote a book called "A Hind let Loose; or, an Historical Representation of the Testimonies of the Church of Scotland for the interest of Christ." It was published in the

* Historical Notices, ii., 521.

year 1687, and therefore must have appeared under the protection of the proclamation of indulgence. On that very document he offers the following commentary: "The Duke of York, succeeding in his late proclamation, would make the world believe that it never was his principle, nor will he ever suffer violence to be offered to any man's conscience, nor use force or invincible necessity against any man on account of his persuasion:—smooth words, to cover the mischiefs of his former destructions, and the wickedness of his future designs!"

And to justify his evil opinion, he thus pithily describes the opening of the new reign: "Immediately upon his mounting the throne, the executions and acts prosecuting the persecution of the poor wanderers were more cruel than ever. There were more butchered and slaughtered in the fields, without all shadow of law or trial, or sentence, than in all the former tyrant's reign; who were murdered without time given to deliberate upon death, or space to conclude their prayers, but either in the instant when they were praying shooting them to death, or surprising them in their caves, and murdering them there without any grant of prayer at all."*

* "Hind let Loose," p. 200.

Doubtless, to Shields, the indulgence to prelatists, erastians, and sectaries, was a principle no less unjustifiable and intolerable than the persecution of the chosen people. But if we had not ample concurring evidence of the persecuting disposition of the author of the proclamations of indulgence, the terms in which these documents were adapted to Scotland contain internal condemnatory evidence, justifying the suspicions of those who took his offers of toleration for a treacherous device. The Declaration of Liberty of Conscience, published in Scotland, bore to be "by our sovereign authority prerogative royal and absolute power, which all our subjects are to observe without reserve;" and it contained this significant distinction: "We allow and tolerate the moderate Presbyterians to meet in their private houses, and there to hear all such ministers as either have or are willing to accept of our indulgence allenerly, and none other. It is our royal will and pleasure that field-conventicles, and such as preach or exercise at them, or shall anywise assist or connive at them, shall be prosecuted according to the utmost severity of our laws;" —a qualification standing in lively contrast to the ample and lauditory concessions made in the same document to the Roman Catholics, who "shall in,

all things be as free in all respects as any of our Protestant subjects whatsoever."*

It was impossible for so diabolical a system to have been in active operation for more than a quarter of a century, without leaving deep marks on the national character. Those who can make themselves acquainted with men through the medium of books, will see in the history of the troubles how a frank, open, unsuspicious people became leavened with that exclusive, sullen, spiritual self-sufficiency which courted the fierce raillery of Burns, and occasionally overshadows the advanced civilisation and improved freedom of the nineteenth century. The sectarianism of Scotland—the peculiar propensity in each person to get within some narrow sheepfold, where, seeking refuge for his own peculiar opinions, he anathematises and excommunicates all the world beyond—was the not unnatural fruit of the long dreary sojourns among misty mountains, and the lurking in caves, where the *idola specûs* were the reflecting man's sole companions.† The habits of

* Kennet's Hist., iii., 449.

† A characteristic little anecdote has been told, which may be held to illustrate the spirit of sectarianism carried to its extreme development. At the time when the Secession Church was divided into the *Burgher* and *Anti-Burgher* communion, some schoolboys are supposed to have got access to a Burgher meeting-house, where they amused themselves with the game of hide-and-seek in the pews and pulpit. The beadle or officer, dreading possible injury to the property, darts among the un-

thought and feeling so violently engrafted on the moral constitution of a people, are not speedily eradicated.

But it was not merely on the religious bearing and belief of the people that the long period of tyrannous anarchy produced its baneful influence. Besides those who inflicted, and those who resisted for conscience sake, the general confusion and the relaxation of all social influences produced a class who were neither led by religion nor by law, but followed their own profligate will. The law taught them that the Presbyterians and their clergy were criminals; the Covenanters told them that the laws were made by wicked men, who ought to be slain rather than obeyed. The Episcopal clergy, and, still more, those Presbyterians who accepted of the partial indulgence, were thus marked off for the insults and inflictions of a lawless and uneducated rabble. "I have known," says Kirkton, "some profane people, if they had committed an error at night, thought affronting a curate to-morrow a testimony of their repentance."* It is evident, too, from the pages of Wodrow—though more is indicated than told—that there was much worldly

suspicious urchins, and captures a prisoner. While he is deliberating how to deal with him, a voice comes from a fellow-urchin of the opposite sect, to this effect, "Hit him hard, hit him hard—his father's an Anti-Burgher."

* History of the Church of Scotland, p. 163.

wickedness among those who professed to be zealous for the Covenant.* If there be truth in the terrible picture which Fletcher of Saltoun gave of the vagrancy and crime in Scotland in the reign of King William, it must be attributed to the same prolific source of social evil.†

* Take the following instance, which reminds one of Ireland in later times: "Three foot-soldiers, of Captain Maitland's company, had been sent to quarter upon a countryman near Lowdon-hill, because he had not paid the *cess*. They continued there near ten days. The man in the house being sick, they were not altogether so outrageous as many of their gang used to be. The wife, or woman-servant, had, during that time, threatened them that if they left not the house, they might come to repent it; but they were not much careful about that, and answered, they came by orders, and behoved either to have their errand or orders to go away. One of the three went down to *Newmills*, upon *Saturday*, and stayed all night; whether he was any way conscious to the design, or only affrighted by the warning, was not known. But upon Sabbath morning, April 20, five horsemen, and about as many foot, came, about two o'clock in the morning, and rudely knocked at the barn-door where the remaining two soldiers were lying. They taking it to be their comrade come from Newmills, one of them rose in his shirt, and opened the door. He was saluted with reproachful words, '*Come out you damned rogues*,' and was shot through the body, and fell down dead, without speaking one word. The other got up, upon this, to put to the door, and received a shot in the thigh from the same hand. The assassin alighted from his horse, and came in upon the soldier, who grappled a little with him, till another came up and knocked him down. He was perfectly dammished with the stroke; and when he recovered his senses, he thought it convenient to lie still in the place as dead. The murderers came into the barn, and took away the soldiers' arms and clothes, and in a little went off."—Hist., b. iii., ch. i.

† He calculates the vagrants—certainly exaggerating—at 100,000; and his description of their character, however ap-

To the same cause may, in some measure, be attributed the development of a political profligacy so eccentric and incomprehensible as to baffle the calculations of the most sagacious statesmen, and distract the theories of historical philosophers. Bodies of men, influenced by irrational prejudices and obdurate enmities, were turned by designing and profligate leaders into political courses that seemed the most unnatural and improbable; and such factious phenomena were developed, as that a zealous revolutionist, who did not get the place he wanted, might immediately be found at the head of the ultra-Covenanters in a plot to restore the Pretender.

That incomprehensible, protean political intriguer, called Ferguson the Plotter, was an immediate fruit of the penal laws against the Covenanters.* He was one of their clergy, and was

palling, is supported by indications from other quarters. He calls them "vagabonds, who have lived without any regard or subjection either to the laws of the land, or even those of God and Nature;" and says: "No magistrate could ever discover, or be informed, which way one in a hundred of these wretches died, or that ever they were baptized. Many murders have been discovered among them; and they are not only a most unspeakable oppression to poor tenants—who, if they give not bread, or some kind of provision, to perhaps forty such villains in one day, are sure to be insulted by them,—but they rob many poor people who live in houses distant from any neighbourhood."—Second Discourse on the Affairs of Scotland.

* The author has had an opportunity of giving, elsewhere, an account of this singular man.

indicted along with Spreul, an apothecary, for fighting at Bothwell Bridge. Managing in some way to evade the prosecution, he connected himself with the projects for maintaining that Charles II. was privately married to the mother of the Duke of Monmouth. It was he who cast an apparent stain on the projects of Russell and Sydney, by framing under their shadow the assassination-plot for the murder of the king and the duke. He was Monmouth's evil genius, almost dragging him to the fatal field of Sedgemure. He plotted for the Prince of Orange; and when William was on the throne, re-plotted for the Jacobites, in conjunction with his old friends the Covenanters; and he was deeply embarked in the Jacobite intrigues of Queen Anne's reign. Few have, perhaps, so restlessly moved every available engine of political mischief; but he was, after all, merely the representative of a reckless spirit of political morality, inculcated on its children by a government which, beginning in haughty recklessness, both about the feelings and the welfare of the people, became, by an almost insensible transition, their scourge and curse.

PROCEEDINGS AGAINST THE EPISCOPALIANS.

It will readily be inferred from the tone of the declarations and testimonies of the persecuted Presbyterians, that when they got the upper hand, Episcopacy would receive scant toleration from them. From the adoption of the Covenant down through the period of the civil wars, the great leaders abjured "a lawless toleration;" and the Scottish commissioners, assembled at London in 1645, alarmed by the growth of Independency, emphatically protested thus:

"We detest and abhor the much-endeavoured toleration. Our bowels are stirred within us, and we could even drown ourselves in tears when we call to mind how long and sharp a travail this kingdom hath been in for many years together to bring forth that blessed fruit of a pure and perfect Refor-

mation; and now, at last, after all our pangs, and dolours, and expectations, this real and thorough Reformation is in danger of being strangled in the birth by a lawless toleration that strives to be brought forth before it."

Even the erudite Principal Baillie, a scholar and a courtier, was equally clear. Among certain positions or first-principles for the guidance of himself and his coadjutors, he sets down the following:

"That the Covenant of Scotland rejects absolutely all kinds of Episcopacy; that the Covenant of the three kingdoms is expressly for rooting out of all prelacy—not the tyranny alone of that office. That the Royalists would be well content to keep in any imaginable kind of Episcopacy, being assured, in their own time, to break in pieces and rend all the caveats we can put on it; for it's necessary to hold to that ground wherein all here does agree, and to which the Royalists themselves are on the point of yielding. That no Episcopacy here is tolerable, as being a mere human invention without the word of God, which, wherever it lodged, has been a very unhappy guest. The total extirpation of it would be applauded and congratulate without any distractions or any reservations, or else nothing would be spoke of that point."* To show how

* Baillie's Letters and Journals, ii., 253.

long this spirit lingered among the Presbyterian community, we find the associate Presbytery, a body whose present representatives profess high and just notions of religious freedom, in their act renewing the solemn league and Covenant in 1743, setting down the following as among the causes of God's wrath towards their country:

"Our iniquities and backslidings have increased more and more; particularly when, by the treaty of union with England, in the year 1707, we were incorporated with our neighbours of England upon terms opposite to, and inconsistent with, our Covenant union with them; in regard, the maintenance of the hierarchy and ceremonies of the Church of England is made, by the said treaty, a fundamental and essential article of the union of the two kingdoms; and thus, with our own consent, the antichristian hierarchy, and a superstitious worship in England, have all the security that human laws can give them; whereby this whole nation hath again, not only given openly up with their solemn Covenant engagements to the Lord, but also involved themselves in the guilt of consenting to, and thereby approving of, the antichristian hierarchy and superstitious worship in England. * *

"Further, a short time after the above incorporating union, particularly in the year 1712, an almost

boundless toleration was granted, whereby a door was opened to gross corruption in principle, which always brings along with it looseness in practice; and in consequence of this toleration, the superstitious and corrupt worship of the Church of England is set up in all the corners of this land."

Thus a small sect, severing itself from the Established Church of Scotland, denounces, among the sins which have caused it to isolate itself in its own purity, not only the toleration of Episcopal worship in Scotland, but the acknowledgment of this antichristian system in the neighbouring country of England.

From such a deep-rooted intolerance, spreading over a century, one naturally expects, that after such an event as the Revolution, when the professors of such opinions have, after a bloody persecution, got the upper hand, there will be a bloody retaliation. Many things, however, concurred to soften the fall of Episcopacy. In the West country, where "the wild Whigs" abounded, the offensive clergy were "rabbled," as it was termed, and driven forth with much indignity, but little absolute cruelty. The spirit which the Presbyterian party had called over from Holland was of a kind, not, as they afterwards found, submissively to obey, but calmly and firmly to rule them—to restrain

their domination, and moderate their ardour. Among his early heterogeneous levies, William came in contact with a deputation from the Established Church of Scotland, such as Charles and James had made it; but his discernment showed him, at once, that he and they could have no cause in common. Another deputation of a different kind waited upon him, in the hope that he would aid them in "exterminating Episcopacy;" but extermination was not a word in his vocabulary, and the zealots returned home much mortified and a little angry.

The Revolution parliament immediately passed "an act abolishing prelacy," and another "restoring the Presbyterian ministers, who were thrust from the churches since the first day of January, 1661." These provisions were followed by an act "ratifying the confession of faith, and settling Presbyterian Church government," which re-appointed the Confession as the fundamental charter of the Established Church of Scotland, and gave authority to the judicatories to "purge" the parish churches and the universities of those who refused to conform with the Presbyterian polity. The hierarchy was thus effectually destroyed, and no one assumed any ecclesiastical superiority over his fellow. The bishops, refusing to conform to the new system, of course lost their temporalities, and found it neces-

sary to live in caution and obscurity, adopting their rank only towards their few devoted adherents. Many of the clergy, like their nonjuring brethren in England, and after a principle of religious heroism, which has been from time to time exhibited by the clergy of every branch of the Christian Church, quietly resigned themselves to their lot. They performed their clerical duties for those who required them, and lived thankfully on such bounty as their adherents could afford to offer them.

In Edinburgh, and probably in other parts of southern Scotland, they gradually opened retired, and almost secret places of worship. In other parts of the country, however, particularly in the Northern counties, the change was not so immediate and striking. The bishops with their seats in parliament, and the other Church dignitaries, no longer existed, and the clergy were bound to take the oaths to government, and ostensibly hold by the discipline and polity of the Presbyterian Church. When, however, as sometimes happened, all the clergy and all the laity of a district were disposed to Episcopacy, it was impossible to enforce the new system. There was no bishop with a seat in parliament over them, but the clergy were not less in heart and general practice the same who had be-

longed to the diocese, though their parishes formed parts of a Presbyterian synod and presbytery. It served to render their recusancy less conspicuous, that even when Episcopal the Church of Scotland did not authorise the use of a liturgy, save in that signal and alarming instance where the service-book sent northwards by Laud and Wren produced, as its reactionary fruit, the national Covenant.

Thus, through a great portion of Scotland north of the Forth and Clyde, the clergy remained immovable and unchanged. In any attempt to force on them the government oaths, there was an awkwardness from this, that the more zealous part of the Presbyterians refused to take them. A still more zealous portion had at once cast off the Establishment as a filthy rag. When they saw that there was actually a government in the land, which, though it professed to leave the Church undisputed master of the spiritual field, yet kept it within its own bounds, and would not permit it to dictate what these bounds should be, they at once abjured such miserable erastianism. These were the "hill men," as they were termed—the Cameronians and other intense bigots, into whose souls the iron of persecution had entered along with stubborn spiritual pride and intolerance. They had been the real sufferers, and when the crown seemed

to be within their grasp, it was the *sic vos non vobis;* and careful self-seekers, who had not borne the burden and heat of the day, were set in their place. Exciting themselves to a higher and higher pitch of discontent and unreasonableness, a portion of these intractable fanatics leagued themselves with the Jacobites to overturn the Revolution settlement. Others, a degree less unreasonable, took the benefices open to them in the Established Church, but soon began to spurn at the parliamentary imposition of oaths, and in fact formed a large portion of the Church, who would not, it was clear, submit to them. This gave a hold to the remnant of the Episcopal clergy in the North, who were externally precisely in the same position—both were nonjurants.

On one occasion, at least, there was an early attempt made by the Episcopalians of the nature of synodical action in competition with the judicatories of the Established Church. A committee had been appointed by the General Assembly to proceed to the North, and enforce adherence to the confession of faith. They met at Aberdeen, the stronghold of Episcopacy. In the year 1694, there was held, in King's College, a meeting "of the ministers of the diocese of Aberdeen, together with delegates from the dioceses of Murray, Ross, Caithness, and Ork-

ney." They appointed some of their members to meet the committee of the assembly, and "present to them some queries or proposals concerted by them at their said meeting, relating to the ecclesiastic authority and jurisdiction of the said committee, and to demand answers and resolutions thereunto." The committee of course declined to answer queries which, as they said, "strike at the root of Presbyterian government, and the present establishment thereof;" and the Episcopal clergy, on their part, find, that "for maintaining the liberties of the national Church, and for many other reasons moving us thereto, which we are resolved in due time to publish to the world, we find ourselves obliged unanimously to testify against the pretended ecclesiastic authority of this committee, and to protest against all their proceedings in the character of an ecclesiastic judicatory, and to appeal to their Majesties King William and Queen Mary, as supreme judges, under God, within these dominions, and to the next lawfully-constitute and orderly called General Assembly of this national Church."*

A very wise measure was passed in 1695, making an inclined plane to let the remaining Episcopal clergy slide into the Presbyterian Establishment.

* The Queries and Protestation of the Scots Episcopal Clergy, &c., by a Layman of the Church of Scotland. London, 1694.

Those of them who had retained their benefices, were permitted to remain in them provided they took the oaths. They were not to license or ordain successors, or perform any other but strictly pastoral functions. But, on the other hand, they were not bound, unless they thought fit, to become members of the Presbyterian judicatories. Such an act was, no doubt, far more efficacious in dissolving the remains of the old Episcopal Establishment than the penal statutes. Still, a considerable portion of the old body beheld the accession of Queen Anne.

The privy council of Scotland, in the last few years of its existence, was troubled with applications from the Presbyterian Church courts to expel the "intruders," as the Episcopal remnant were termed; and the latest of the solemn acts on this point bears date on the 20th March, 1706, and follows, in the minute-book, the appointment of a commission to treat of the union. It is levelled against persons having no authority from or within the Church, "but pretending warrant from the late exauctorate bishops." It states, that they get possession of the keys of the parish churches, and make use of them for their illegal purpose; and when proceedings are carried against them in the civil courts, "they do either remove only to the border of the neighbouring parish, and there continue their func-

tions, or boldly proceed as if no sentence had passed on them." The sheriffs of counties are directed to aid in the suppression of these disorders, and especially, where the keys of churches are illegally detained, to cause new ones to be made. The "exauctorate bishops" are, at the same time, "discharged" to grant any warrant or licence, "as they will be responsible upon their highest peril." Many picturesque accounts might be given of the resistance of the peasantry, in Episcopalian districts, to the efforts of the ecclesiastical authorities—not always very heartily seconded by the judicial—to enforce the supremacy which the state had conferred on the Presbyterian Church; but they do not properly belong to the present occasion. North of the Grampians, there were Episcopalian ministers still holding their benefices at the accession of George I.

In the southern districts of Scotland, where Presbyterianism and Revolution sentiments were beyond all question supreme, the nonjurors remained quiet and cautious during the reign of King William. Their entire severance, however, from all concern in the passing interests of the age—their political extinction—taught them to associate all their future plans and hopes with the fall of the Revolution settlement, and the restoration of the Stuart dynasty. Before the end of William's reign, suf-

ficient time had elapsed to make this a fixed sentiment, and Jacobitism was almost a creed of Scottish Episcopacy. This distinctly antagonistic position was somewhat modified by the accession of Queen Anne. The one absorbing sentiment of the queen's narrow intellect was devotion to the Church of England, as the only true Church. Would she not, therefore, surely look with an eye of pity on the impoverished and struggling members of the same family in the North?—such were their natural expectations. Then, on the other hand, was she not a Stuart, who deserved their good-will and amity, if she could not command their entire loyalty?

The epoch seemed propitious to the humbled priesthood, who began gradually to emerge from their hiding-holes into the open day. Their restoration to light was accompanied by a new feature. It was deemed well to strengthen all the external marks of alliance with the Church of England, not only for the sake of the protection of that powerful body itself, but to propitiate the queen. Thus the English liturgy was introduced into a few of the churches. Some people received this change as indicative of loyalty, since it was a departure from the ways of the Scottish Jacobite Episcopalian Church, and an adoption of the forms of the loyal

Church of England. The Presbyterian ministers, however, looked on the new ceremonial with strong disfavour, as a step towards Popish idolatry. They watched the nature of these rites, and observed that the clergy who performed them either omitted praying for the queen, or did so in an equivocal and suspicious manner. When the negotiations of Hook brought Admiral Forbin to the Frith of Forth, to support the Jacobites, they thought they saw an appearance of extreme exultation and insolence in the aspect of the nonjuring clergy.

Towards the end of February, 1707, the Scottish privy council, drawing towards the conclusion of its existence, received an injunction from Whitehall to see to the security of the kingdom, and the preservation of the public peace. The council, in their deliberations, found, that in order to accomplish this, it was necessary to suppress the public meetings of those who, under pretence of divine worship, invited such ministers to officiate as the law had prohibited—not having qualified themselves by taking the oaths, praying for the queen, &c.; and instructions were issued to proceed against offenders.

Acting under these instructions, the procurator-fiscal of the city of Edinburgh brought a libel, or

accusation, against eighteen Episcopal clergymen, who, "shaking off all fear of God, and regard to her majesty's authority and laws, or to the public peace and security of the country," preached publicly without praying for her majesty, or taking the oaths, "whereby they manifestly discover their disaffection to her majesty's government, and do what in them lies by such practices, in not regarding or observing public fasts and thanksgivings, to keep up a wicked faction against her majesty's government and the peace and security thereof." When brought before the magistrates on this charge, they started some technical objections to the form of procedure. They then pleaded, that the statute required them to pray for King William and Queen Mary, as king and queen of this realm, "of which act we are libelled as contraveners, because we do not, as is alleged, pray for her Majesty Queen Anne. It is answered—first, that the persons for whom public prayers are ordered by the said act to be made, are dead, and the act must die with them in consequence. Second, it is invidious for our pursuer to bring our prayers into the accusation, seeing he cannot allege against us any words or expressions that bewray contempt of authority or disrespect to their persons. We pray for the whole royal family. We are none of those who despise

dominions, or speak evil of dignities; and, therefore, cannot conceive upon what ground this part of the accusation against us is founded; especially, seeing there is no form of prayer, in relation to this particular, imposed by any law; and where there is no law, there can be no transgression." On the matter of the oath, they pleaded that it was only intended to apply to clergymen, as lucrative public officers, and ought not to include those who enjoyed no benefices.

The sentence of the magistrates was, that the accused were "to desist from keeping of any meeting-houses within the city of Edinburgh, &c., and from preaching or exercising any part of the ministerial function within the same, in all time coming, under the pain of imprisonment." One of them, having made some remarks construed "to import his great contempt to the queen and her authority," was forthwith imprisoned. This occurred in March; and in June, 1708, the municipal authorities were again roused to action, by being informed that their prohibition was disregarded. In some instances, the city guard were placed at the doors of the places of worship to prohibit entrance; but, partly in meeting-houses, partly in their own dwellings, these nonjuring clergy still performed their functions. Unwilling, apparently, to drive matters to

extremity, the provost of the town desired to have a meeting with them. They were asked if they would undertake to abandon the performance of their functions, "to which they all unanimously made answer, that it was a demand with which they could not comply, and that they would not bind themselves up from doing the duties of their calling in any part of the Christian world." They stated, that they were bound "to obey God rather than man"—probably the very text which the magistrate himself was thinking of when he determined to suppress their prelatic preaching. On the 17th of July, a portion of them were committed to prison, there to remain until they should comply with the injunction against them.* It is stated by De Foe, that after the danger from a French invasion, united with a Jacobite rising, had passed away, the Presbyterian citizens of Edinburgh were disposed to good-humour; and that those of the imprisoned Episcopalians who yet held out against compliance, were permitted to leave their prison. A new element, however, was now brought into the dispute. As the union was held to fuse the whole empire together, there was supposed to be

* A Narrative of the late Treatment of the Episcopal Ministers within the City of Edinburgh, since March last, 1708. London.

nothing to prevent the clergy of the Church of England and Ireland from officiating in Scotland. It appears, that some Episcopalian citizens of Edinburgh believed that in this manner they might meet all the difficulties of their position. It was said, casually, that as there were some official people connected with the revenue, and other government departments, who had now come from England to reside in Scotland, and it was natural that now many inhabitants of England would come northward, while Scotsmen went southward,—it was fair that the English should be permitted to follow their religious observances in peace, under their own clergy. If the English inhabitants of Edinburgh, or any other Scottish town, had liberty to attend a place of worship so ministered to, of course native Scotsmen could do so likewise. Arrangements were accordingly adopted to procure the services of a clergyman from England or Ireland.

It might naturally be supposed that the introduction of the English liturgy accompanied this project; but it appears to have been used, occasionally, before the union. It was now, however, that it came chiefly under general notice; and while the popular passions excited by the union were still alive, the project of introducing an English clergyman, with his English service, was viewed as the com-

mencement of a series of national humiliations, which would end in the subjection of the Scottish people to the English Church and the English laws. Nor did it by any means tend to reconcile them to the innovation, that just as the parliament and privy council—the badges of national independence, had been removed, a set of harpies of revenue-officers, who knew not the national customs, and performed their functions with the insulting rigidity of foreign invaders, had swarmed into Scotland, and were the very individuals for whom the "innovations in worship," as they came to be called, were provided. It seemed as if the prophecy of the fiery Lord Belhaven, still ringing in their ears—predicting the downfal of all their fondly-cherished institutions, with their "national Church, founded upon a rock, secured by a claim of right, hedged and fenced about by the strictest and pointedest legal sanctions that sovereignty could contrive,"—were about to be fulfilled.

It is probable that a clergyman originally ordained for the English Church, might have for various reasons been reluctant to hold so troublesome an appointment. The person on whom it fell was a certain James Greenshields, who had been ordained, in 1694, by a Scottish bishop, but who had officiated as a curate in Ireland, and came

from that country accredited by the Archbishop of Dublin.

The method of proceeding first adopted against Greenshields was certainly one of the oddest ever devised for accomplishing an ecclesiastical victory. The dean of guild being an officer who has authority in questions about the destruction or perversion of edifices, proceedings were raised in his court, professedly at the instance of the landlord from whom Greenshields had hired his meeting-house. It was set forth, that "the petitioner having set a dwelling-house, in Stewart's-court, to Mr. James Greenshields, preacher of the Gospel, at the agreed rent of six pounds sterling; and true it was, that the said petitioner did set the same allenarly for a dwelling-house for the accommodation of the said Mr. Greenshields, and his wife, and seven children, which he, at taking, told he had to possess the same, &c.; yet notwithstanding whereof, as the petitioner was informed, the said Mr. Greenshields has not only, to the petitioner's great hurt and prejudice, inverted the order of his said house, by removing the partitions thereof, though fixed both to the top and floor, but also, to the prejudice of the petitioner's other houses, he set up a public meeting in the said house, whereby, and by the down-taking of the partitions, the house itself and hail land was thereby in great

danger, and the hail other tenants did threaten to remove, unless the said meeting be shut up." The proceedings further bear, that "the dean of guild and his council having visited the house above mentioned, they found, and hereby find, that the partition being removed, and new seats and a pulpit put up therein, contrary to the agreement with the petitioner, they ordained the seats presently to be removed, and the partitions put up, and the house to be put in the condition it was formerly."

This impediment was easily overcome, and Mr. Greenshields, with somewhat increasing popularity within his limited circle, procured accommodation elsewhere. There were no means of proceeding against Greenshields under the statutes, for he had qualified, and duly prayed for the queen and the Princess Sophia. Whatever proceedings were directly taken against him, it was found, must be, in the first place, ecclesiastical. By way of initiative, a petition to the commission of the General Assembly was prepared, and in a few hours signed by several hundreds of the citizens. The petitioners said: "To our very great surprise, several of the Episcopal clergy, prompted and instigated thereunto by the Jacobite party, who are equally disaffected to the civil as to the ecclesiastic constitution, have of late not only erected meeting-houses in this city, after the Scots

Episcopal way, but also, in several places here, have set up the English service, which, as it is contrary to our Establishment, and very grievous and offensive to us and all others who are well-affected to her majesty and the present Establishment, so it will prove of fatal and dangerous consequence to the Church, if not speedily remedied."

The commission of the General Assembly sits for performance of those functions which it is authorised to undertake by the Assembly, during the long interval between the annual sessions of that body. The preceding Assembly had, according to uniform practice, left an instruction "that the commission, as often as they shall see cause, apply to the government, or any magistrate, for their countenancing or concurring with the judicatories of the Church in what the law allows, and for putting in execution of the laws against Popery and profaneness, and seeking redress of grievances, abuses, and disorders committed contrary to the established doctrine, worship, discipline, and Presbyterian government of this Church."

On this instruction, the commission directed the presbytery to proceed against Greenshields. They served an order on him to attend, "to give an account of yourself; you being a stranger here, and presuming, at your own hand, without the autho-

rity of any judicatory, to exercise the office of the holy ministry publicly upon the Lord's-day, and convening people to hear you." The manner in which, according to the record of proceedings, he met the charge was, that being a clergyman of the Church of England, he was desirous, as such, to officiate to those of the same persuasion. "And since, by the union of the two kingdoms," he continued, "I do believe that the Episcopal Church of Scotland is now incorporate with the Church of England, and that, though Presbytery is the legal Establishment of North Britain, yet I find that there is no law against those of the communion of the Church of England to exercise their worship in a private manner, and without intruding into any church or glebe of any minister established by law; and therefore I do not think myself subject or liable to any censure of any ecclesiastical judicatory in North Britain, but only in so far as to give an account that I am lawfully-ordained minister, and free of any scandal that may incapacitate me for such an undertaking."

The result was, that the presbytery "do find that the said Mr. Greenshields has, in high contempt of this Church Establishment by law, declined their authority; that he has exercised the ministry

within the bounds of this presbytery, without their allowance, which is an unwarrantable intrusion; and introduced a form of worship contrary to the purity and uniformity of the worship of this Church, established by law. Wherefore, the presbytery did, and hereby do, unanimously prohibit and discharge the said Mr. Greenshields to exercise any part of the office of the holy ministry within their bounds, and recommend the magistrates of Edinburgh, and other judges competent, to render this sentence effectual."

The presbytery transmitted their proceedings to the magistrates, who summoned Greenshields before them. They sanctioned the order of the presbytery, and dismissed him with the warning, that if he disobeyed it, he would be imprisoned. Afterwards, there was an "application made by the neighbourhood to the magistrates, and information given that, notwithstanding of the presbytery's sentence, the said Mr. James Greenshields had continued in exercising the ministerial function within the city of Edinburgh, in his meeting-house." As he did not deny the charge, he was at last ordained "to go to the prison and Tolbooth of this city, therein to remain, ay, and till he find caution that he should desist from the exercise of his ministry within this

city, liberty, or privileges, in all time coming, or else that he should remove himself therefrom."*

This being a decision by a civil court, Greenshields sought redress in the court of session. The proceedings had naturally roused the spirit of the friends of Episcopacy, who were previously lukewarm; and he was well backed. The obscure clergyman, occupying a place of worship in a dark alley for 6*l.* a year, became, as generally happens in such matters, a power in the state; and people looked with eager anxiety at the judicial battle. The cause had one bitter enemy on the bench, in the person of the well-known Lord Grange, who had just been appointed a judge, and who had his own designs to accomplish, by doing the will of the more exclusive party in the Church of Scotland.†

* The case of Mr. Greenshields, 1710.

† Lord Grange was one of those vile, but fortunately rare characters, a perfect hypocrite, who led two distinct lives, the one immersed in the blackest vices, the other whitewashed with a thin covering of the purest piety. He joined, with extreme mystery and secrecy, in the hideous debauches of Lovat, and the other profligates of the day; hatching Jacobite plots with them, while he publicly professed the strongest Hanoverian and Presbyterian principles. The tragic romance acted by him towards his wretched wife, is well known. It is, perhaps, not quite so well known, that he attempted to kidnap his sister-in-law, Lady Mar; but, when carrying her across the Border into Scotland, he was pounced on by her sister, the Lady Wortley Montague, who, armed with a King's Bench warrant, snatched

The presbytery and the magistrates had acted with little more guidance than their convictions and prejudices. In the court of session, it was necessary to look deeper into the legal warrants for such

the prey from his grasp. His object in seizing on the weak woman, who fortunately had a no less scrupulous protector, was purely mercenary. (See this incident brought out in Blackwood's Magazine, for September, 1849.) Such deep duplicity could not pass unquestioned before men of the world, and despite his utmost art, people shunned Lord Grange, and shook their heads. To honest zealots like Wodrow, however, his ultra-religious enthusiasm was a sufficient passport; and the historian's note-book is filled with wondrous relations of the apostolic piety of the venerated judge. Thus, in relation to a barber's boy: "It pleased the Lord, as a great mercy to James Nesbit, to incline his nephew to a liking to what is good and serious, and my Lord Grange was the occasion of it, in some words dropped from him when the boy was shaving him." We have the following curious account of this virtuous man's attempt to suppress the circulating library established by Allan Ramsay the poet: "Ramsay has a book in his shop, wherein all the names of those that borrow his plays and books for 2d. a night, or some such rate, are set down, and by these, wickedness of all kinds are dreadfully propagate among the youth of all sorts. My informer, my Lord Grange, tells me, he complained to the magistrates of this, and they scrupled at meddling with it, till he moved that his book of borrowers should be inspected, which was done, and they were alarmed at it, and sent some of their number to his shop, to look through some of his books; but he had notice an hour before, and had withdrawn a great many of the worst, and nothing was done to purpose. This, with the plays and interludes come down from England this winter, dreadfully spreads all abominations, and profaneness, and lewdness."—Analecta, iv., 516. Lord Grange's brother, the Jacobite Earl of Mar, appears to have been a man of the same insincere and treacherous character, but, working in a different sphere, it took another shape.

proceedings. Greenshields maintained, that even independently of his position as holding letters in the Church of England, he came under the act of 1695, which protected the clergy who took the oaths, even though they should not come within the scope of the Presbyterian polity. But he was met by the plea, that his ordination had been made by one of the "exauctorate" bishops; and the very law on which he founded, prohibited acts of clerical succession by those whom it tolerated. "And it is a vain imagination to think a deposed bishop retains the power to ordain, for that were to perpetuate the schism; and the nonjurant bishops in England do not so much as pretend to it; so that this volunteer is truly no Churchman at all, but a pure layman; and the consolidation with England is a sophistical notion, the union establishing the Presbyterians; and no other set of a Church has a legal being and existence here, but them only; and there needs no law condemning the English service, for the introducing of the Presbyterian worship explodes it as inconsistent." "Some alleged," says the same authority, "the want of a prohibitory law was not warrant enough; for if a Mahometan mufti should set up to teach the Alcoran in Edinburgh, it would be no excuse to him to say there is no law in Scotland against

the Alcoran: others thought this comparison too wide."* The views of Grange, who was probably the author of the too-wide comparison, prevailed, and twice the court solemnly decided in favour of the presbytery, and in support of the imprisonment. Greenshields entered an appeal from the decision of the court of session to the House of Lords. Great changes, tending to favour his cause, had taken place before it was finally heard. When first brought in, we are told, that the House was too much occupied with the impeachment of Sacheverell to attend to it. Before it came on for judgment, the political wheel of fortune had turned. Sacheverell had made his triumphant procession; Mrs. Masham had driven away Sarah Jennings; Marlborough was checked in his career of victory; the treaty of Utrecht was projected, and Harley and St. John were masters of the cabinet. It was not to be supposed that the party which had become predominant, would permit a poor brother to wither in a Scottish gaol for supporting their principles and pretensions.

It appears, however, that even Harley was annoyed that such an incidental matter should occur to add to the causes of irritation in the Presbyterian party. "I answered," says Lockhart, the Jacobite

* Fountainhall's Decisions, ii., 523, 549.

leader, "that I could assure him we were much mistaken, if any bad consequences happened from supporting Mr. Greenshields in his just plea, for the contrary was designed by those who pushed it. That the Scots Presbyterians were as much exasperate already as they could be, and had neither ability nor courage to give any disturbance; for their interest in the country was very small, as sufficiently appeared from the great majority of Tories in this parliament, which he knew was not owing to any assistance they got from the court, but arose wholly from the inclinations of the people. That as for himself (Harley), he had no reason to show them any favour, for they preached and prayed against him—*nominatim*, giving him over to the gallows and the devil from their pulpits; and I was confident—at least, hopeful, he would never give them reason to have a better opinion of him."*

Appeals from the court of session to the British House of Lords were just beginning to come into practice; and it is probable that such a case as the present, showing the necessity of some protection against local prejudice and oppression, tended to give support to the partially-developed system. It was long ere it came to be the exclusive function of the law lords in the House to decide on these appeals

* Lockhart Papers, i., 347.

from the courts below; and we have some curious insight into the influence brought to bear on this branch of the administration of justice in its infancy. Lockhart states, that the Scottish members of the Commons subscribed freely to enable Greenshields to conduct his case. "And when the day prefixed for discussing the appeal drew near, they divided themselves into several classes, to each of which was assigned a certain number of English lords, on whom they waited, and gave a true and clear representation of the case, which had so much weight, and produced such good effects, that the underhand dealings of the ministry were entirely baffled."* On the 1st of March, 1711, it was ordered that the sentence of the magistrates, and the decree of the court of session, be reversed.

Nearly at the same time, the Toleration Act of 1711 was passed, "to prevent the disturbing those of the Episcopal communion in that part of Great Britain called Scotland, in the exercise of their religious worship, and the use of the liturgy of the Church of England." In two or three instances — chiefly in Glasgow — the Episcopal places of worship, where the English liturgy was used, had been attacked by mobs; and the local magistrates had refused them protection. The Church, in

* Lockhart Papers, i., 348.

England so powerful, was thus threatened by the rabble on the one hand, and the law on the other. It is observable in this act, that the clerical qualification necessary to the persons whom it protects is, that they "shall have received holy orders from the hands of a Protestant bishop;" it is not required that he should be a bishop of the Church of England. They required to produce their letters of orders to the justices at quarter sessions, to be recorded, and to take the oaths of allegiance and abjuration.* The act contained a provision which became equally a stumbling-block to the Jacobites, and the more zealous of the Presbyterians—that every clergyman, whether of the Established Church or the protected Episcopal communion, must, on each occasion of divine service, "pray, in express words, for her Most Sacred Majesty Queen Anne, and the Most Excellent Princess Sophia."

The rebellion of 1715 developed the strong Jacobite spirit which had been curdling in the Episcopalian Church, and the pacification was followed by a crop of prosecutions for the penalties leviable under the act. They were preceded by a letter, under the sign-manual, to the Court of Justiciary,

* 10th Anne, c. 7. One of the rubrics of the act characteristically bears "This act shall not give any ease, &c., to Papists."

referring to the existence of meeting-houses, where service was performed without prayers for the king and royal family; and requiring the court "to give strict orders for shutting up all such meeting-houses." The court sent, in answer, their humble opinion that their forms did not allow such summary procedure, till after trial and conviction by due course of law; but the royal letter so stimulated the prosecutions, that twenty-five Episcopal clergymen in Edinburgh were brought to the bar at once, on the 11th of June, 1716. One of them, named Cockburn, was exempted from the proceedings on producing his certificate of letters of orders from one of the "exauctorate" Scottish bishops; twenty-one of them were subjected to the statutory penalty of 20*l.* By the literal words of the act, the penalty was leviable only for omission of prayers for Queen Anne, in whose reign it passed; and Mr. Arnot—himself a lawyer—calls the sentence "palpably illegal; for, as this penal statute annexed the penalty of 20*l.* to the not praying *for Queen Anne while living*, it was repugnant to every rule of law, to every principle of liberty, to extend the penalty to the not praying *for King George after she was dead.*"*

* Criminal Trials, p. 388. The indictment mentions an order in council to pray for King George; but, of course, if Mr.

But in the indictment against them, their offence was almost made one of commission as well as omission, for "pretending to use the liturgy of the Church of England, in virtue of the Act of Toleration, each of them in the day foresaid, or one or other of them, in their respective meeting-houses, wherein they did officiate as pastors, wilfully and contemptuously omitted every prayer, petition, or part of the said liturgy and service of the Church of England, where his majesty's name, or the names of their Royal Highnesses the Prince and Princess of Wales, &c., are by authority expressly apppointed to be named or mentioned; and in place thereof, made use of certain general and equivocal words, to the dishonour of God and true piety, and contrary to their profession of following and making use of the liturgy of the Church of England, and duty of praying for his majesty as supreme Christian magistrate, manifestly in contempt of his authority, and tending to excite sedition, and alienate the affection of his people from his majesty's person and government, stirring up thereby his subjects to misliking seditious unquietness, and to cast off their obedience

Arnot's very literal view of the statute be right, this would not enlarge its operation. Mr. Arnot seems to think it was an act of personal meanness for the lord-advocate, or public prosecutor, to pursue for the informer's half of the penalty.

to his majesty, to their evident peril, tinsel, and destruction."*

On the 4th of March, 1717, they were again brought to the bar on a similar charge, "indecent and unpastorial" being added to the terms of reproach which the indictment heaped on them. But there was a more serious new feature in this prosecution. One of the prosecuted clergymen had, as we have seen, been released on producing a certificate of ordination by a Scottish bishop. A resolution seemed now to be formed to question the legality of such orders. It was stated in the subsequent proceedings, that in the earlier stage the illegal source of the orders had been overlooked, the court having merely turned its attention to the statutory certificate from the quarter sessions, that letters of orders from a Protestant bishop had been produced. In the new indictment it was set forth, that the accused had received orders from persons calling themselves bishops in Scotland, which were illegal, "pretended orders from pretended bishops," as they were termed. The crown, however, did not press for a verdict on this point, as the accused were found guilty of the omissions to pray for the king. It was, evidently, now in contemplation to extinguish this dangerous Jacobitical Scottish Episcopacy, and get its ad-

* Books of Adjournal, MS.

herents, partly by force, partly by coaxing, attached in some form to the Church of England. In an act, however, passed in 1719, for fixing more distinctly the terms in which the Episcopal clergy were to take out their licences, and pray for the royal family, there was no provision for accomplishing the proposed end, which appears to have been suspended until the government received new provocation.

For some years the Episcopal clergy seem to have been left in comparative peace. An agreeable feature in the history of the times is the absence of any cruel popular outbreaks against them. In the West country, where the spirit of the more obdurate Covenanters still lingered, there was a faint, but only a faint, indication of popular restlessness. Wodrow mentions the concurrence of two moral phenomena in the year 1728: "Two things happen pretty singular, which twenty or thirty years ago would have been very odd in Glasgow—the setting up of an Episcopalian meeting-house, and public allowing of comedies." The clergyman, named Wingat, who appears to have been a nonjuror, "was very uppish" to the magistrates. "A mob was threatened," but did not come forth, though Glasgow had been for some years in a very turbulent state. "These two or three years," says Wodrow, "there have been very strong efforts made to have public meeting-houses set up in the

west and south of Scotland, where the greatest opposition was formerly made to Episcopacy; and this, no doubt, makes a great dash abroad, where things are magnified; and what the consequences will be to following generations, I tremble at the thoughts." And if the honest zealot had lived to see the spruce ecclesiological edifices, duly Orientalized, with their stone altars, sedilia, credence-tables, lecterns, and rood screens, he would have probably deemed all his worst prophecies too sadly verified.

There is no doubt that the Duke of Cumberland's troops treated the Episcopal clergy with that brutality which they distributed among all who were deemed disloyal, and sprinkled even among many warm friends of the Hanover interest. It is extremely difficult at all times to keep a victorious military force from treating even those it is sent to protect as subdued enemies. Many of the Episcopalian meeting-houses were burned or dismantled in the general retribution, and several buildings of an architectural pretension considerably above the efforts made by the subdued Church for many subsequent years, are said to have been thus demolished. It was now, too, that the government determined, if possible, to exterminate the Scottish Episcopal Church, and drive its flock into the English sheep-

fold. An act was passed, strengthening the restrictions on Episcopal clergymen, and rendering more minute and complicated the regulations they were bound to observe. The act was made to apply to every clergyman performing service for five persons, besides the household; that being deemed a congregation, and making the worship public. The main provision of the act, however, was, that no letters of orders would be admitted as effective, "but such as have been given by some bishop of the Church of England or of Ireland." As it was doubtful whether this had a retrospective effect, so as to make it exclude the clergy who had received ordination from Scottish bishops before the passing of the act, an explanatory statute was passed, making it positively retrospective.

As an instance of the operation of the statute, a short account may be given of the proceedings against Alexander Greig, John Petrie, and John Troup, tried before the sheriff of Kincardineshire, on the 5th of December, 1748. The principal witness was Richard Shaw, corporal in General Blakeney's regiment, who went, by order of his lieutenant, to watch a house, which he knew to be a meeting-house, having often seen persons resort thither on Sunday. His description of the scene is curious: "When he went into the house, there were convened in one room about forty persons, young and old;

and in the same room there was a closet, in which he saw Mr. Greig standing in an Episcopal habit, with a book in his hand, in which he was reading; and he heard him, in the reading, several times make mention of Paul the Apostle. There were only two women with Mr. Greig in the closet, the door whereof was open to the room." This evidence was confirmed by that of three other soldiers. William Cooper, a tailor, said that he had often seen "convened and met together, in the next room to Mr. Greig's, more than five persons over and above the household; which room was possessed by Jane Steven, for the purpose of hearing Mr. Greig, who was in a closet within his own room. He did not see him, but he knew him to be the preacher by his voice, and those in Jane Steven's room made responses to him in the time of prayer. That he has heard Mr. Greig perform the whole of divine service after the form of the Church of England, and he never heard him pray for his Majesty by name, his heirs and successors, and all the royal family. That between the doors of the two rooms there was a plate, or basin, in which the persons convened put in offerings in money, intended for the use of Mr. Greig."*

Such severities only fortified the victims up to

* Black Book of Kincardine. Stephen's History of the Church of Scotland, iv., 336.

the pitch of enduring them; and there might, from the domestic annals of this period, be gathered many affecting instances of the zealous devotion of these humble pastors. Thus, in the register of the Episcopal chapel of Muthell, in Perthshire, there is, of date 20th March, 1750, this entry by the clergyman:

"N.B. With such excessive severity were the penal laws executed at this time, that Andrew Moir having neglected to keep his appointment with me at my own house this morning, and following me to Lord Rollo's house, at Duncrub, we could not take the child into the house; but I was obliged to go under the cover of the trees in one of Lord Rollo's parks, to prevent our being discovered, and baptize the child there." *

Among the numerous instances of penalties inflicted on these poor clergymen in the middle of the eighteenth century, one is remarkable from this peculiarity, that the punishment of the statute not being thought sufficient for the occasion, the accusation was extended so as technically to include other and more penal charges. In 1755, John Connachar, an Episcopal clergyman, officiating in Argyleshire, was brought to trial under the act. On a fuller examination of his case, however, the

* Steph., iv., 346.

public prosecutor found that he could be proved to have celebrated several marriages, in such a manner as to subject himself to the operation of an act of the reign of Charles II., directed against the Covenanters. The accused was prepared with evidence that his conduct did not come within the avowed aim of the act, which was to punish those who celebrated marriages clandestinely and irregularly; he could adduce proof, in all cases, of the regular proclamation of banns. That which, however, would have been all-sufficient, had the law acknowledged him as a clergyman, was undermined by his legal disqualification. The statutory punishment to which he was subjected, was banishment from Scotland, under pain of death should he return to the country. He went to England, where he might live as he pleased, and be a living caricature of a penal law which made him a criminal, punishable with death, in one division of the empire, and an innocent man in the other.*

Possibly, when the state of civilisation, of political morality, and of the administration of justice, in the year 1755, is compared with their state in the reign of Charles II., it might be admitted that Episcopacy in Scotland can compete with Presby-

* See his case at length in the Scots' Magazine for 1755, pp. 207-313.

terianism for the distinction of martyrdom; recentness being in some measure put in the balance against intenseness. The temper of the two Churches, however, is different. The Presbyterians delight in enumerating their sufferings from the wrath of the mighty; the Episcopal Church rather shuns any allusion to its adversity, and would be inclined to forget that it ever was humble and poor, or found it necessary to skulk and evade the law.

In the case of Connachar, the judge, in charging the jury, said, that a person of his activity and diligence was "dangerous to our present happy Establishment." This allusion expressed the true motive-spirit of the persecution. Connachar officiated in Glencoe, and the district so unhappily associated with the tragic history of the execution of James Stewart, for the murder of Campbell of Glenure.* The clergyman was punished because he was a Jacobite, and all the proceedings against his class were directed to the suppression, not of the Episcopal religion, but of the Jacobite cause. Perhaps few people will count this a vindication of penal prosecutions for peculiar forms of worship. If there be any who do so, the answer to them is, that a well-regulated government will be able to protect itself from attack, without interfering with

* See vol. i., p. 73.

religious observances. That the Episcopalians had the option of joining with the Church of England, was no better vindication of the severities, than any other careless challenge to zealous religionists to be reasonable. People whose religion is interfered with are never reasonable, and never will be so. The Scottish Episcopalians had made, indeed, a considerable gulf between themselves and their English brethren, by adopting forms so different from the Anglican, that, on a late occasion, a clergyman who had been ordained in England, was excommunicated by a Scottish bishop for following the English and evading the Scottish form.

On the accession of George III., when terrors of Jacobite invasions died away, the poor humble Episcopal Church began to raise its long-drooping head. When Prince Charles-Edward died, in 1788, the Jacobites became loyal, by an ingenious fiction overlooking the fact that half the crown-heads of Europe still stood between George III. and the legitimate descent from the house of Stuart. About the same period a fortunate incident occurred. After the independence of the United States was acknowledged, the members of the Episcopal Church there were desirous of possessing a duly-authorised hierarchy. The English bishops disliked the republican connexion, yet thought it a pity that a branch of

the Church should be cut off from the succession. They bethought them that they had a poor relation in Scotland, who might not be too fastidious to acknowledge and receive the upstart. Accordingly, after some diplomatic negotiations, certain American bishops were consecrated in Scotland. The Church of England did not forget this favour, and lent its influence to the passing of the act which, in 1792, relieved the Scottish Episcopalians from the penal laws.

THE END.

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